

Witness for the Defense

March 10, 1994

Gary Gitchell

Direct examination

By DAVIDSON:

Q: Could you state your name, please.

A: Gary Gitchell.

Q: Could you speak up, please?

A: Gary Gitchell.

Q: You're the same Gary Gitchell that testified earlier in this proceeding?

A: Yes sir, that's correct.

Q: And what is your -- where do you work?

A: I work for the West Memphis Police Department.

Q: What is your position for the West Memphis Police Department?

A: I'm an inspector.

Q: And what is an inspector?

A: Over the criminal investigation division.

Q: So are you in charge of the criminal investigation division?

A: Yes sir, that's right.

Q: Okay. So this particular investigation regarding these three homicides -- were you in charge of this investigation?

A: Yes sir.

Q: And were you the person that the other officers would report to in this investigation?

A: Yes sir.

Q: And it was your responsibility to take care of this entire investigation?

A: Well I had a lot of help.

Q: Okay, thank you. Do you -- in the West Memphis Police Department do y'all have a police manual that has procedures?

A: Yes sir we do.

Q: In this police manual, are those procedures that the police department follows in conducting their investigations?

A: For criminal investigation, a manual strictly for that?

Q: Yes.

A: Is that what you're asking?

Q: Yes.

A: No sir.

Q: So, there is no manual and how you will do certain things in an investigation, is that correct?

A: No sir, a step-by-step guide if that's what you're asking for, no sir.

Q: Do you have set procedures regarding the interviewing of witnesses?

A: No sir, not particularly.

Q: Is there any procedure in the -- well, is it your practice to tape record interviews of potential witnesses?

A: Some we do, some we don't.

Q: Does the West Memphis Police Department have tape recorders?

A: Yes sir, on occasions.

Q: On occasions. Does the West Memphis Police Department also have a video camera?

A: Working right now, yes.

Q: On May fifth of 1993, isn't it true that the West Memphis Police Department had a video camera?

A: We had a video camera but as far as it being hooked up and working and set in a position such as an interrogation room or of that nature, no we did not.

Q: You did have a video camera that day?

A: Yes sir.

Q: So the West Memphis Police Department does own a video camera?

A: Yes sir.

Q: Were any of these interviews that you conducted in this investigation videotaped?

A: In this entire investigation?

Q: Yes.

A: I believe there were some that were, yes sir.

Q: But there were some that weren't?

A: Right.

Q: Did you ever videotape any interviews with my client, Damien Echols?

A: No sir.

Q: Did you ever tape record any of the interviews with my client, Damien Echols?

A: Did I personally?

Q: Yes.

A: I can't recall if I did or not. I don't think I did, there may have been some other officers that did.

Q: There are tapes of my client?

A: Not -- are there --

FOGLEMEN: -- (Inaudible) there may have been.

Q: Are you the custodian also of the records of the West Memphis Police Department?

A: No sir I'm not the custodian of records.

Q: Are you the person that takes care of this investigation, and are you aware of the records that have been compiled in this case?

A: I've lived with them for about 10 months. As far as every item in there, there's no way humanly possible I can keep up with all of it.

Q: Did you ever -- to your knowledge, did anybody ever turn on a tape recorder and push that record button when anybody talked with my client, Damien Echols?

A: I don't know. You'd have to ask someone else. I don't know.

Q: Who were all the people that talked with my client?

A: I believe detective Ridge did. Detective Durham. That may have been the only two that I know of that talked to him.

Q: Would detective Sudbury also have talked with him?

A: I think he talked with him out on the street one day.

Q: Okay. Were any of those conversations to your knowledge recorded?

A: I don't know if they were or not.

Q: Did you also talk with my client, Damien Echols?

A: I talked with him for a short time, yes sir.

Q: Did you make any notes of those conversations?

A: It was a very informal sitting down and talking what he and I did.

Q: So there are no notes of your conversation with him?

A: I don't recall.

Q: I believe you testified that you didn't record that also.

A: No.

Q: Is it your procedure in the West Memphis Police Department for interviews of suspects in a crime to be taped?

A: No, it's not a procedure to do that.

Q: It's not a procedure to do that? Would you agree with me if you had done that we would know exactly what the officers said and exactly what Damien Echols said?

A: Well, we've talked with several hundred people in regards to this investigation, so no it was not possible to do a recording of everyone. It's a man power, a personnel trying to get everything transcribed. No, it's impossible to do. We rely a lot on our personal notes.

Q: We'll get the transcribing here in a minute. But first of all I wanna ask you about the taping. Does it take a longer time for you to put a tape in a tape recorder and hit that button to where it would just be impossible for you to do?

A: No.

Q: These little tapes -- what do they cost about? \$4 for six? Is that about right?

A: Let's see, you talking about cassette tapes? Mini cassette tapes?

Q: Well what kind of recorders do you all have in the West Memphis Police Department?

A: We have mini cassette tape. We got a large regular cassette tape also.

Q: How much would it have cost the West Memphis Police Department to tape record conversations with my client, Damien Echols?

A: Wouldn't have cost much.

Q: Wouldn't have cost much?

A: Un-uh.

Q: Would it have cost -- well strike that. So are you telling us that there really aren't any procedures for tape recording interviews?

A: That's basically opened up to an individual investigator.

Q: Okay.

A: Do I instruct them to, make them to, no.

Q: Now, let's talk for a minute about the procedures in West Memphis Police Department for showing a photo line-up.

A: Okay.

Q: Do you have set procedures in the West Memphis Police Department for showing a photo line-up?

A: Basically what we attempt to do is done several different ways. On occasions we do have a -- it's like a manila fold that has got the squares cut out.

Q: Do you have that with you here?

A: I don't know if it's right here. It's possibly in another vehicle that we brought all the evidence with us. I don't know if it's actually with this.

Q: Could you get that sometime today?

A: Sure.

Q: Is this like a cut out piece of mat board --

A: -- Well you didn't let me finish on the different ways. You asked how many ways --

Q: -- Okay --

A: That's one way we do it. There's also just a (mirror?) laying out of pictures with putting a number on the front of the picture. It's done that way sometimes. Then there's also a method of using our mug shot books, which we have several hundred photographs in our mug shot books, probably -- I'm gonna guess, a 15 or 20 books that individuals also look at. So we have a lot of photographs.

Q: Is it a procedure of the West Memphis Police Department for you to write down the names of the pictures that you show to someone in a photo line-up?

A: If there was an identification made, yes we would.

Q: If there is no identification made, do you not write down the names of the people?

A: It would be good to do that, and I know what you're getting at. But yes, it would be good to do that, yes sir.

Q: You would agree with me that it could be exculpatory to someone? It would be a good thing for someone that was accused of a crime to know that they weren't identified in a photo line-up, wouldn't it?

A: To know that they were not identified?

Q: Yes.

A: I guess you'd have to explain that a little better for me.

Q: Okay. If someone is accused of a crime, and you go out and show a witness a photo line-up, that person's picture in the photo line-up, and they do not pick anybody out, wouldn't it be important to tell this person that?

A: It would depend on what that photo line-up is for. Is it for identification purposes in this crime, or is it for identification purposes for another reason.

Q: Was a photo line-up shown in this crime?

A: Yes sir.

Q: How many?

A: Possibly two.

Q: Possibly two. And, in those photo line-ups, was my client's picture included?

A: Well there's been a little debate about that. I understand -- I have an officer that is trying to recall if there was one or not. I was present at the time and I'm thinking that his picture was in that line-up.

Q: Y'all didn't write it down, so you just don't remember either way, is that correct?

A: I'm saying I think his picture was in it, yes sir.

Q: It is also true that his picture was not picked out, isn't it?

A: Well, I can answer that a simple yes or no or be allowed some --

Q: I'm asking you yes or no.

A: I figured you would. Yes his picture was shown.

Q: But it was not picked out?

A: And it was not picked out.

FOGLEMAN: Your Honor, one explanation that -- we'd like to be able to explain.

THE COURT: All right, explain if you need to.

A: Okay. His picture was shown to an 8-year-old boy. This 8-year-old boy was giving us information in regards to cult activity that he states he has witnessed. And the people were described as having all blackened out faces.

Q: But this 8-year-old boy did not pick him out, did he?

A: We didn't think that he would pick anyone out if their faces were totally black so we didn't expect. It was just strictly a shot in the dark.

Q: Okay --

THE COURT: Was anybody picked out?

A: Nobody was picked out, no sir.

Q: Let me ask you a little bit about your procedure for the handling of evidence. Is there a set procedure that the West Memphis Police Department has for the handling of evidence collected in this case?

A: Yes sir, detective Ridge for the most part took custody of evidence and made it and prepared it to go to the crime lab. We tried to have one particular officer to take items to the crime lab to cut down on the amount of officers that would be subpoenaed to court. We are a small department and we attempted to have as few officers involved as possible.

Q: Could you tell us what the procedure is when someone goes out and collects evidence, what happens with the evidence at that point?

A: Okay, he would take that evidence -- we use paper bags -- paper bags we purchase from grocery stores in town. We use those bag because they breaths. If you use a plastic bag, moisture is retained in that plastic bag and you can damage any possible evidence that you would put into a plastic bag.

Q: Where is it that you keep the evidence?

A: We would either keep it in -- we have an evidence vault in our detective division. Or in this particular case it was so large I utilized an office next to my office to keep the evidence in.

Q: Is that the closet area that adjoins your office?

A: Well now we have a detective in that office but --

Q: Okay --

A: -- you're familiar with where it's at.

Q: The evidence -- once it comes is placed in the evidence locker or the closet. If it's going to be sent to the crime lab, how is that handled?

A: Okay there's a form, that's an evidence admission form that belongs to the state crime lab which we fill this form out, we attach it to the bag. Ofcourse, when you pick a piece of evidence up you write down what type. If you give me a bag I can show you.

(Handing bag)

A: Okay, in this case, this one's marked E78, a black t-shirt from Damien Echols, date 6-3 of 93, the officer's initials, the case file number on it. Then it has subsequent markings on it which we did not apply but when evidence goes to the crime lab that is done on it, and the different people that handle it may put this on it.

Q: Okay thank you. Did officer -- or detective Ridge bring you evidence collected at the Bojangles restaurant?

A: Bring me?

Q: Yes.

A: No sir.

Q: To your knowledge, was an evidence submission sheet you just talked about ever completed sending anything to the Arkansas Crime Lab from evidence collected at the Bojangles restaurant?

A: As far as I know, no sir, it was never a form filled out. I believe what you're questioning about -- you've seen my office, you're familiar with my office with the one table there. During this case that table was full of different papers, documents, basically all throughout that office.

Q: When did you discover that the Bojangles blood evidence had been lost?

A: I believe it was when it came up in Corning.

Q: And that's the first that you knew that this evidence had been lost?

A: Yes sir.

Q: Were you awaiting that evidence to come back from the crime lab?

A: No sir, it was as the term is, lost.

Q: Now, so as far as your procedures for collecting that -- in this case it was to bring it in and put it on your table in your office?

A: That's correct.

Q: Now, let me ask you a little bit about the procedures of the West Memphis Police Department for audio and video surveillance. In this case -- first of all, do you have a set procedure for audio and video surveillance?

A: Yes sir.

Q: And what is that procedure?

A: We would get permission from the individual if we were in someone's home. Or we would get a permission from that person in order to do that.

Q: Did you have audio and video surveilla-- audio surveillance in this particular case?

A: Yes sir.

Q: And where was that audio surveillance?

A: We did one at Vicki Hutcheson's residence. And then we also set out on the skating ring parking lot in West Memphis and did a surveillance of that also.

Q: Tell us what kind of equipment that you used there with the audio surveillance at Vicki Hutcheson's house?

A: Okay what we have is a transmitting device which was connected to an outdoor repeater and the signal would be transmitted with that repeater and could be received by us with walkie talkies and also with recording device.

Q: So you had a recording device, a transmitter, and receivers --

A: Right.

Q: Were one of those receivers in your office?

A: No not my office.

Q: Not in your office? At the police station?

A: At the police station. Any -- there's several radios that we have, walkie talkie radios with that channel affixed in the radio, that you can receive that particular frequency on.

Q: So you had equipment where it would be placed in a home and you could listen in at the police station?

A: Right. Depending on a lot of factors. But we were able to, yes.

Q: Did you -- first of all, was Vicki Hutcheson working for the West Memphis Police Department in this investigation?

A: Initially, no she was not. We were not aware -- we were not even aware of her.

Q: Did she work with the West Memphis Police Department in this investigation?

FOGLEMAN: Did you say "With" or "for"?

DAVIDSON: I'm saying "with."

A: Yes sir.

Q: And Vicki Hutcheson, is she the person you had the audio surveillance in her home?

A: Yes sir.

Q: Isn't it true that the purpose of this audio surveillance was to try to catch my client saying something that you could use against him?

A: That's correct.

Q: And you indeed did have a hook-up there at her house?

A: You mean the device there?

Q: Yes.

A: Yes sir.

Q: How long was it there?

A: I think just that one -- actual use time, just that one day or one evening, if I recall correctly.

Q: When was it placed in --

A: I couldn't tell you the actual date. It would have been placed in possibly one evening and then actually utilized the next evening.

Q: Do you have notes saying what equipment was put in there, when it was put in there, when it was taken out?

A: Yes sir, no -- well detective Sudbury, lieutenant Sudbury, he was the officer that handled that. I personally did not.

Q: Are you familiar -- and do you think that there are notes saying when it was put in, what equipment was put in and that sort of thing? When it was taken out?

A: There should be a form which we have gotten permission from Ms. Hutcheson to do this. Exactly what the dates are or what is on it I'm not aware of. As I said that would be lieutenant Sudbury handled that, so I don't know.

Q: Did you ever oversee his placing this surveillance in there?

A: No sir.

Q: You're just saying we'll have to ask him about that?

A: Yes sir.

Q: Okay. Are there set procedures for doing that in the West Memphis Police Department?

A: Other than --

Q: For documenting that?

A: Just what I've described to you.

Q: This equipment -- you think it cost more than audio tapes?

A: Oh yeah.

Q: How long was this surveillance out there and in use? I've already asked how long it was out there and you didn't know, but how long was it in use, do you know that?

A: For several hours, and it got to a point that we just turned it off.

Q: And isn't it true that my client was on this surveillance?

A: That I don't know, I could not -- I could not say. I don't know.

Q: Did y'all transcribe this?

A: It was impossible to do that.

Q: Do you normally transcribe statements?

A: If they're audible and understandable.

Q: Do you often work with other police departments in investigation of crimes?

A: Yes sir.

Q: In this particular investigation did you work with the Marion Police Department?

A: Later on in it, yes sir.

Q: Later on in it?

A: Yes sir.

Q: Do you know a man named Don Bray?

A: Yes sir.

Q: Where does he work?

A: Marion Police Department.

Q: Did Don Bray provide you notes in his part of the investigation?

A: He provided a couple of tapes which we have transcribed and given to you.

Q: Did he provide you any handwritten notes?

A: I don't recall any handwritten notes, no sir.

(Pause)

Q: Finally officer, there has been a knife that has been marked for identification purposes as E6. First of all, this evidence up here, what happens with it at night?

A: What's happened with it for the last 10 months?

Q: No, since we started the trial. What happens with this evidence?

A: We keep it locked in vehicles.

Q: Locked in vehicles?

A: Uh-huh.

Q: What happens when the jury goes home and we go home -- who takes the evidence and locks it up?

A: Myself. Detective sergeant Allen. Detective Ridge. We use a two-wheeler over there and we make 2-3 trips every morning and every afternoon, taking this evidence in and out putting it in a van owned by the police department.

Q: Would you have any idea where in any of these boxes where Exhibit E6 might be?

A: No sir, y'all been through them more than I have recently. You probably ought to know where it's at.

Q: I've looked in here once. (Pause) Okay, this particular exhibit marked as E6 -- are you familiar with that exhibit?

A: Yes sir, I'm familiar with it.

Q: In fact, you had the exhibit under earlier testimony, is that correct?

A: Yes sir.

Q: And you opened the exhibit under earlier testimony?

A: Yes sir.

Q: You also mentioned a red fiber that was in the hinge of the knife at that time, is that correct?

A: No sir, I didn't.

Q: You acknowledged it was there, did you not?

A: A red fiber? No sir.

Q: You did not?

A: You better check your log, I don't think so, no sir.

Q: We'll ask that the court reporter--

A: All right. No red fiber --

Q: -- play that back later. But you -- this particular knife has been in the possession of the West Memphis Police Department, is that correct?

A: That's right.

Q: And you all take it home at night?

A: Right.

Q: Were you aware of Doctor Peretti's testimony regarding a red fiber being in the hinge of that knife?

A: Sir, I've been in the witness room, I'm unable to listen to testimony.

Q: If I told you that Doctor Peretti looked in the hinge of the knife and saw a red fiber, would you agree that there was a red fiber in there?

A: Not unless I saw it, no sir.

Q: Did you ever see a red fiber in that knife?

A: Before I sent it off?

Q: Before you sent it off.

A: No sir.

Q: Where did you send it?

A: I sent it to Genetic Design.

Q: To Genetic Design. And is that were this Mr. Deguglielmo that testified?

A: Yes sir.

Q: And when you all sent the knife to Genetic Design and paid them the \$7300 or whatever it was, did you ask for any testing on anything that may be in the hinge of that knife?

A: Right.

Q: And did you receive any reports regarding any red fiber in that knife?

A: I don't recall a red fiber, no sir. I did not see a red fiber in that knife when I sent it. When it was returned, there was a red fiber.

Q: When it was returned there was a red fiber. Did you ever send that red fiber off for testing?

A: Sir, when you send a knife off to the lab and there's no red fiber on it, and they do testing, there's an assumption on my part they clean that knife afterwards.

Q: Okay, so --

A: Now that --

Q: -- answer my question.

A: -- was evidently by Mr. Deguglielmo.

Q: Okay, answer my question. Did you ever inquire of him regarding this red fiber?

A: Sir, that red fiber was not on it when I sent it.

Q: Did you ever inquire Mr. Deguglielmo regarding the red fiber?

A: No sir, I did not but I know it was not on it.

Q: Did you ever inquire to Doctor Peretti regarding the red fiber?

A: Me personally, no sir.

Q: Did you ever inquire of Lisa Sakevicius regarding the red fiber?

A: You're talking about a red fiber that's on this knife?

Q: Yes.

A: Well how can I when there's no red fiber on it when I sent it.

Q: When you sent it to Genetic Design --

A: There was no red fiber.

Q: -- and where did it go from Genetic Design?

A: It went to the crime lab.

Q: Was it ever tested at the crime lab for fibers to your knowledge?

A: It would be a part of the record in file. I do not know.

Q: Did you ever request it to be tested?

A: I requested for the substance that I saw on the knife.

Q: Isn't it true that your submission sheets to Genetic Design said "Check for blood and other substance"?

A: Sure. That's a common terminology.

Q: To your knowledge, that knife has never been tested for fibers, has it?

A: Not to my knowledge.

Q: This particular knife, how did you come in possession of this knife?

A: I came in possession through Federal Express.

Q: Where did it come from?

A: It came from the gentlemen sitting there doing the HBO recording for Creative Thinking.

Q: And to your knowledge, where did they get the knife?

A: They received -- one of their camera personnel received it from Mr. Mark Byers.

Q: And this particular knife that you received -- did you question Mark Byers regarding this knife?

A: Yes sir, I did.

Q: When was that questioning?

A: It was the 26th or 27th of, I believe, January. I'll have to refer to my notes. While we were in Corning during the Misskelley trial.

Q: And did you send that knife off for blood testing?

A: Yes -- well, to see what was on the knife and if anything's found on the knife to try to determine what it is.

Q: Was there blood on the knife?

A: Sir, I am not a lab technician, I do not know.

Q: Okay. Did you question Mr. Byers regarding the blood on the knife?

A: Yes sir, I did.

DAVIDSON: Your Honor, we would seek to introduce the knife at this point.

FOGLEMAN: I don't have any objection.

THE COURT: All right it may be received.

DAVIDSON: (Inaudible) -- Explain for the jury, your Honor? (Pause) Have you all been doing that with or without that packaging?

THE COURT: I don't know.

DAVIDSON: Does it matter?

THE COURT: Doesn't to me.

A: You might ought to do it with the packaging so you'll have initials of the officers because later this is gonna come up we're gonna get confused again.

Q: I'll keep it all together, that's a good idea. Also, just so we know, it has the Federal Express packaging on here also, is that correct? That's where it went to Doctor Peretti?

A: I didn't send that, no sir.

Q: Shows from -- could you tell us what it shows?

A: This has got the address of Genetic Design, Greensboro, North Carolina. Shipping date the 18th of January of 1994, to Doctor Peretti of the Arkansas State Crime Lab.

Q: Thank you. (Pause) Inspector Gitchell, I wanna go back to one area that we discussed and that was the area of the photo line-up that you showed the child. Now, I believe your testimony earlier was that the child mentioned something about black faces, is that correct?

A: Right.

Q: Isn't it true that you showed him the photo line-up prior to any of that being mentioned?

A: I don't recall that.

Q: Okay. I'd like to show you a statement -- and on page 4 --

FOGLEMAN: Which one is that? The document?

DAVIDSON: No idea.

PRICE: May we have a second?

DAVIDSON: May 27th.

Q: Prior to the time you showed the photo line-up, had there been another line-up shown to this child as far as you know?

A: One line-up.

Q: One line-up?

A: Right.

Q: Did someone else show this child any pictures prior to the time you talked with him?

A: Possible, I do not know.

Q: Would Don Bray have done that, prior to the time that the child was talked to?

A: You would have to ask Don Bray, I do not know.

(Pause)

Q: Excuse me for a second, your Honor. (Pause) When you had the surveillance made at Vicki Hutcheson's, did you ever send those tapes off for voice identification?

A: No sir.

Q: Can that be done, where you send tapes off to -- kind of clean up the tape to identify those voices?

A: Possibly it can be. I do not know.

Q: You all do that in drug cases?

A: I don't think we have.

Q: You don't think you have?

A: I don't know.

Q: But that can be done, to send it to a laboratory to clean to clean up those tapes --

A: -- I understand --

Q: -- and take out the background --

A: -- I understand that can be done on some occasions.

Q: Did y'all do that in this case?

A: No sir.

Q: Could you find the permission slip where Vicki Hutcheson signed a permission slip allowing that to be put in here?

A: Could I find it?

Q: Allowing the surveillance to be put in her home --

A: -- You want me to try to find it? --

Q: -- so we'll know the date that this was --

A: -- do you want me to try to find it?

Q: Yes.

THE COURT: DAVIDSON, are you getting somewhere with something that is relevant?

DAVIDSON: Yes, your Honor.

THE COURT: You are going to assure me of that?

DAVIDSON: Yes, your Honor.

THE COURT: All right.

PRICE: Judge, can we approach the bench?

THE COURT: Yes.

(Bench conference)

PRICE: At this time we object to the Court's last statement that was a comment on the evidence that was not in response to --

Unidentified female: (Inaudible)

PRICE: Yes, I do.

Unidentified female: (Inaudible)

PRICE: Yes please. At this point we object to the Court's last statement that was a comment on the evidence by your Honor asking if this was relevant. We call for a mistrial. That was certainly not in response to any objection raised by either party, and we object.

FOGLEMAN: Your Honor, I wanna respond before you do. Your Honor, we've objected the whole time to all of this line of inquiry and we did not object specifically at this time, I'm talking about them basically --

THE COURT: -- (Inaudible) to --

FOGLEMAN: -- I know, I know, I know --

THE COURT:— police procedures and all that I would have sustained because it's not relevant --

FOGLEMAN: Your Honor, we've done it --

THE COURT: -- what was done in this case --

FOGLEMAN -- we've done it previously in this case, and basically I don't know what they're gonna ask until you allow them to do it and we don't wanna object every time they go into this stuff.

PRICE: If I could respond judge, we have objected in this case about him losing evidence, about photographic line-ups not done properly, about that records about surveillance that we've never seen the documentation on surveillance, and I think it certainly is relevant to this particular case.

FOGLEMAN: Your Honor, these photographs --

THE COURT: None of that is relevant now. I guess you could create some kind of image for the jury if that's what you're saying that you're entitled to do that, that's another thing. I mean, your theory of the case. But whether or not it's relevant, credible evidence is --

PRICE: -- if they show photographs --

THE COURT: -- none of this line of questioning of Gitchell except maybe a few minor points have ever been relevant at all, if they haven't objected.

PRICE: If they show a witness my client's picture, and he does not identify him, the Court's saying that's not relevant?

THE COURT: Well --

FOGLEMAN: If the witness testified --

THE COURT: -- the witness aren't testifying to anything and from what we know of the statement of those witnesses they couldn't identify a living soul. In fact, their statement were they couldn't identify anyone. Period. There's no relevancy to it.

FOGLEMAN: If we put Aaron Hutcheson on the stand I could understand, but, your Honor, we ought to be able to put on Aaron's statement about him identifying these three guys.

DAVIDSON: You can put him on the stand.

FOGLEMAN: But we chose not to and so y'all -- it's pretty ridiculous to me to attack the credibility of a witness who hasn't testified.

THE COURT: Your motion is denied. If you object to relevancy in the future I'm sure gonna sustain it.

FOGLEMEN: Your Honor, right now we're objecting to a continuation along this line.

(Return to open court)

(Audio stops, then begins abruptly)

Q: -- permission slip?

A: No sir, I haven't found it. It exists but I haven't found it.

Q: Nothing further. (Pause) Will you find that for us?

A: I'll surely try. You got my curiosity now.

Q: Thank you.

Cross examination

By FOGLEMAN:

Q: Inspector Gitchell, this surveillance that he asked you about at Vicki Hutcheson's, was this after May the 10th when Detective Ridge talked to the defendant?

A: I couldn't tell you exactly what date it was. I'd have to --

Q: Do you know when you first -- when the police department first had contact with Vicki Hutcheson?

A: Several weeks from the day the crime occurred.

Q: Several weeks after the murders?

A: Yes sir.

Q: And Damien Echols was last talked to by the police on May the 10th?

A: Okay.

Q: All right. So isn't it true that it would have been after May the 10th when the surveillance was done?

A: Yes sir.

Q: You mentioned that it was impossible to transcribe this tape from the surveillance. What do you mean by that?

A: You just couldn't understand it. The quality was of such -- the noise, the music in the background, you just couldn't understand any of the voices.

Q: In regard to this knife right here and questioning Mr. Byers -- when something is brought to your attention that may or may not have some relevance to the case, isn't it your duty as a police officer to investigate to investigate and run down every possible lead?

A: Yes sir, it is.

Q: You run that down whether -- no matter what your personal feelings are about it?

A: Right.

Q: And in addition to the fact that you, as a police officer, are going to run down every lead, isn't it true that Jessie Misskelley's lawyer requested that you interview Mr. Byers?

A: Yes sir, he did.

Q: I don't have any further questions.

Redirect examination

By DAVIDSON:

Q: Did you in this case run down every possible lead?

A: Yes sir. As far as it's aware to us.

Q: Thank you. Nothing further.

THE COURT: All right you may stand down. Call your next witness.

(WITNESS EXCUSED)

(Pause)

THE COURT: I notice some of your witnesses went back to the courtroom. If they're gonna be called again they're gonna be in --

PRICE: The one in the courtroom that we talked to.

THE COURT: I understood the State want to recall one of them.

PRICE: Which one was that?

FOGLEMAN: Did she stay in the courtroom?

PRICE: Who is that?

THE COURT: I think so.

FOGLEMAN: Miss Poindexter -- Gail Sharp.

THE COURT: Did she leave? Okay.

DAVIDSON: Your Honor, the other witness that we had scheduled for today is the witness that -- we are unable to question at this time that will be scheduled at a later time. And because of that, your Honor, we are through with the witnesses that we had scheduled for today.

THE COURT: How many more witnesses do you have?

DAVIDSON: Possibly -- about five, your Honor.

THE COURT: And how many witnesses will y'all have?

FORD: We haven't determined that yet, your Honor.

THE COURT: You don't have any vague idea?

FORD: No sir.

THE COURT: Okay. And how many rebuttal will y'all have? Of course you don't know yet --

FOGLEMAN: Your Honor, we don't know until -- get up there -- don't know.

THE COURT: Okay.

DAVIDSON: Your Honor, I don't want it to look like we weren't prepared today because we had the witness scheduled --

THE COURT: I understand that.

DAVIDSON: -- we were unable to question him.

THE COURT: I'm not trying to do anything to suggest that.

DAVIDSON: Just wanted it to be understood.

THE COURT: I just wished it been tomorrow.

(Laughter)

DAVIDSON: (Laughing) Me too.

THE COURT: All right ladies and gentlemen with the usual admonition not to discuss the case you may stand in recess until 9:30 in the morning.