

FILED

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT

03 MAY 21 AM 9:14
JASON
CIRCUIT AND CHANCELLOR
COURT CLERK

DAMIEN WAYNE ECHOLS

VS.

NO. CR 93-450 & 450A

THE STATE OF ARKANSAS

RESPONDENT

**FIRST SUPPLEMENT TO ECHOLS MOTION FOR FORENSIC DNA TESTING,
ASSERTING ADDITIONAL FACTUAL AND LEGAL GROUNDS JUSTIFYING
ADDITIONAL FORENSIC TESTING UNAVAILABLE AT THE TIME OF TRIAL**

Pursuant to Arkansas Code § 16-112-202 *et seq.* (2001); Art. 2, §§ 8, 9, 13, and 29 of the Arkansas Constitution; the Eighth Amendment’s prohibition on cruel and unusual punishment, and the Fourteenth Amendment’s guarantee of equal protection and due process of law, DAMIEN WAYNE ECHOLS (hereafter “Mr. Echols”), by counsel, respectfully moves the Court to order additional forensic testing unavailable at the time of his trial, as set forth herein. Mr. Echols respectfully reiterates, re-asserts, and incorporates by reference all factual and legal assertions contained in his original Motion for Forensic DNA Testing, filed July 23, 2002 (“DNA Motion”). He files this supplement to that Motion to clarify that his request for forensic testing is not limited to DNA testing, but extends to other types of forensic testing unavailable at the time of his trial.

In his DNA Motion, Mr. Echols requested that this Court issue an order releasing the biological evidence secured in relation to the trial which resulted in his three capital murder convictions and death sentences, to a reputable laboratory or laboratories for the purpose of having forensic DNA testing performed. Specifically, Mr. Echols sought to have Short Tandem Repeat (“STR”) and/or mitochondrial

DNA testing ("mtDNA") conducted on biological evidence, requested that this Court issue an order directing the preservation of the evidence in question while the Motion for Forensic DNA Testing was pending, and requested a hearing to determine the location of evidence reported "lost" and to make the showings required under Ark. Code Ann. § 16-112-202.

On January 28, 2003, this Court entered an order for the preservation of all physical evidence in this case. The parties (counsel for Mr. Echols, counsel for co-defendants Baldwin and Misskelley, and counsel for the State) plan to conduct during the week of May 19, 2003, a comprehensive review and inventory of all physical evidence related to this case. Mr. Echols anticipates that the review and inventory will reveal that physical evidence exists which may be subject to other types of forensic testing (in addition to DNA testing) which were not available at the time of his trial. Accordingly, Mr. Echols files this supplement to request authorization to conduct such testing on the physical evidence in this case.

I. Evidence exists which could be subject to testing and evaluation using currently accepted and available forensic testing methods which were unavailable at the time of trial, as permitted by Arkansas Code §16-112-201 *et. seq.*

First, Mr. Echols requests the opportunity to examine, through use of scanning electron microscopy (SEM),¹ and through techniques, including the application of specialized light sources in use and accepted by the trace evidence units of the Federal Bureau of Investigation (F.B.I.), and all major crime laboratories, as evidenced in currently accepted journals of the forensic sciences, including but not

¹ In contrast to conventional light microscopes, which use a series of glass lenses to bend light waves and create a magnified image, the scanning electron microscope creates magnified images by using electrons instead of light waves. The scanning electron microscope can create very detailed 3-dimensional images at much higher magnifications than is possible with a light microscope.

limited to FORENSIC SCIENCE COMMUNICATIONS, all hairs and fibers acquired during the investigation of this case, including:

- (1) All hairs and fibers transmitted to the Alabama Department of Forensic Sciences, and described in Forensic Scientist John Kilbourn's letter and inventory dated January 5, 1994 and appended here as Exhibit 1;
- (2) All known and unknown hair, clothing, and fiber evidence processed by the Arkansas State Crime Laboratory, and transmitted to the Alabama Department of Forensic Sciences, described in Mr. Kilbourn's letter dated January 5, 1994, including, but not limited to, Items K-1 through K-111, Q-1 through Q-36;
- (3) Included in this above-described list of fibers are, including but not limited to: black polyester fibers, blue polyester fibers, green polyester fibers, red rayon fiber and cotton fibers found in Items Q-11 through Q-34 as described in Mr. Kilbourn's January 14, 1994 letter;
- (4) Included in all of the above hair and fiber review requests are requests for the reexamination of hairs and fibers testified to by criminalist Lisa Sakevicius either in this case, or that of State of Arkansas v. Jessie Lloyd Misskelly, Jr.

Second, Mr. Echols requests that all items having surfaces that may contain preserved fingerprints be reviewed, and that any partial or full latent prints lifted during the investigation be made subject to digital photography and other advanced techniques allowing further examination and comparison where possible. Some items of evidence collected in the investigation of this case were made subject to analysis for possible fingerprints, including: Item E-3 (a toy sheriff's star); E-17 (a wooden stick); E-21 (a box

containing mud with possible fingerprints); E-23 (a knife and a scabbard); E-24 (an ice axe); E-169 (a black survival knife). These items were the subject of two reports, the first dated 5/24/93 and the second 12/03/93.

Other items which may be subject to re-examination for fingerprints include:

- (1) All evidence previously subjected to laboratory analysis for fingerprint evidence, including particularly any knives seized and inspected as the initial part of the processing of these cases;
- (2) Any hooks or cotton ropes found at the crime scene including, but not limited to, E19;
- (3) All bicycles removed from the scene as possibly related to this matter, including, but not limited to, the bicycles identified as having belonged to the three victims in this case.

Mr. Echols also requests that the Court allow him to seek review of specific crime scene photographs using digital enlargement techniques that would allow the creation of more accurate enlargements than were possible at the time of his trial, and thus permit a better assessment of the accuracy of the prosecution's theory concerning the evidence of the killings available at or near the crime scene (including but not limited to evidence of a crime scene clean-up).

II. Arkansas law authorizes the requested post-conviction examination and forensic testing of physical evidence.

Under Arkansas Code § 16-112-202, except where direct appeal is available, a convicted person may move for the performance of fingerprinting, forensic DNA testing, or "other tests which may become available through advances in technology to demonstrate the person's actual innocence. . . ." Ark. Code

Ann. § 16-112-202(a)(1) (emphasis added). The petitioner must show that identity was an issue at trial, that the evidence has been subject to a chain of custody, and that the previously unavailable scientific evidence establishes the petitioner's innocence or rests on a scientific predicate which could not have been discovered through the exercise of due diligence. See Ark. Code Ann. § 16-112-201, 202(b)(1), 202(b)(2).

Arkansas Code §§ 16-112-202 sets forth the requirements for bringing a post-conviction motion for such forensic testing or re-testing. *Inter alia*, such a motion may be predicated on the ground that the "evidence was not subject to the testing [now requested] because either the technology for the testing was not available at the time of trial or the testing was not available as evidenced at the time of trial." Arkansas Code § 16-112-202(a)(1)(B).

Mr. Echols satisfies all of the requirements of the Arkansas statutes at issue. Identity of the perpetrator was an issue at his trial. He has concluded his direct appeal. Voluminous physical evidence was collected and processed by the State in connection with his prosecution and trial. Since the trial and conviction there have been significant advances in the scientific techniques, tests, evaluations and expertise, which are directly applicable to the evidence at issue. He is making claims authorized by Arkansas Code § 16-112-201 and can meet all of the conditions specified in Arkansas Code 16-112-202.

III. Case authority, scientific literature, and the facts of this case demonstrate that there have been significant advances since the time of trial in the scientific techniques, tests, evaluations, and available expertise for examining the evidence in this case, and thus that the Court should authorize Mr. Echols to apply currently accepted scientific techniques to, e.g., the hair and fiber evidence.

During Mr. Echols's trial, the State offered testimony regarding certain fiber evidence which it contended had been found at the scene and was consistent with having been transferred from garments

found in the houses of Jason Baldwin and Damien Echols. However, none of this evidence was examined using technology which would have permitted a detailed review of its cross-section and appearance, such as would be provided by a scanning electron microscope (“SEM”), and other currently acceptable scientific techniques, including the application of specialized light sources. Modern crime laboratories, including the F.B.I. Laboratory, commonly apply these technologies to hairs and fibers. *See, e.g.,* Deedrick, Douglas, “Hairs, Fibers, Crime, and Evidence,” 2 FORENSIC SCIENCE COMMUNICATIONS No. 3 (Part 2, Fiber Evidence) (July 2000).

The State relied upon criminalists from both the Arkansas State Crime Laboratory and the Alabama Department of Forensic Sciences to examine and assess the implications of the fiber evidence it obtained. Regrettably, Arkansas State Crime Laboratory criminalist Lisa Sakevicius is now deceased. John Kilbourn, Examiner for the State of Alabama, has retired -- and the State of Alabama apparently no longer is involved in the examination of fiber evidence. Nothing in their reports evidences use of currently accepted SEM technology.

Hair and fiber evidence are regularly the subject of testimony in courtroom proceedings, and it is generally agreed that “[t]he principles and procedures underlying hair and fiber evidence are overwhelmingly accepted and reliable.” United States v. Santiago Santiago, 156 F.Supp.2d 145, 152 (D. Puerto Rico, 2001) (discussing scholarly works endorsing the use of hair and fiber evidence). The purpose of this motion is to ensure that the hair and fiber evidence in this case is subjected to more accurate tests that have become available through advances in technology since Mr. Echols’s trial, that it may ultimately be used to corroborate Mr. Echols’ actual innocence. The requested tests were, in the language of Arkansas Code § 16-112-202(a)(1)(B), either “not available at the time of trial, or not

available as evidence at the time of trial." For all these reasons, Mr. Echols moves for the application of scanning electron microscopy, and other currently acceptable scientific techniques including the application of specialized light sources, to the hair and fiber evidence collected in the course of the investigation underlying this prosecution.

IV. The Court should grant Mr. Echols the ability to apply currently accepted photographic and computer technologies to latent, or developed, or observable fingerprints on physical evidence seized in this case, including all knives and all other materials processed for fingerprints, as well as any surface likely to have preserved fingerprints.

Like courts elsewhere around the country, the courts of Arkansas and the Eighth Circuit have accepted fingerprint evidence for years. *See, e.g., United States v. Dorsey*, 852 F.2d 1068 (8th Cir. 1988); *United States v. Hernandez*, 299 F.3d 984 (8th Cir. 2002); *see also generally, e.g., United States v. Crisp*, 324 F.3d 261, 266 (4th Cir. 2003) (noting that every Circuit to reach the question post-*Daubert* has found fingerprint evidence admissible) (citing *Hernandez*; *United States v. Havvard*, 260 F.3d 597, 601 (7th Cir.2001); and *United States v. Sherwood*, 98 F.3d 402, 408 (9th Cir.1996)); *United States v. Llera Plaza*, 188 F.Supp.2d 549, 572-73 (E.D. Pa. 2002); *United States v. Joseph*, 2001 WL 515213, *1 (E.D. La. 2001) (observing that "fingerprint analysis has been tested and proven to be a reliable science over decades of use for judicial purposes"); *United States v. Martinez-Cintron*, 136 F.Supp.2d 17, 20 (D. P.R. 2001). Ongoing investigation by counsel has revealed that certain major law enforcement agencies, and related laboratories, have developed extensive computerized databases which now allow relatively quick comparison of known and unknown fingerprints. Also, certain digital photography techniques allow the comparison of fingerprints that are difficult to read. In addition, a number of pattern analysis programs

have been created which allow use of biometric databases; many such programs are employed by crime laboratories today.

Attempts were made to obtain fingerprints from a number of items of evidence collected during the investigation of this case, including E-3 (a toy sheriff's star); a broken bicycle spoke reflector; E-17 (a wooden stick); E-21 (a box of mud containing possible fingerprints); E-23 (a knife and a scabbard); E-24 (an ice axe with a blue handle); and E-169 (a survival knife).

For these reasons, the Court should grant Mr. Echols' request for the analysis of fingerprint or potential fingerprint evidence using current technology which was unavailable at the time of his trial.

V. The Court should grant Mr. Echols the ability to apply currently accepted scientific techniques to crime scene photographs, using digital enlargement techniques that would allow more accurate enlargements than could have been created at the time of trial.

There now exist digital enlargement and enhancement techniques, unavailable at the time of trial, which would permit fruitful re-examination of the photographs of the crime scene and the victims' injuries. Such accurate digital enlargement techniques will enable Mr. Echols and reviewing courts, including this Court, better to assess the credibility of the prosecution's theory concerning the evidence of the killings available at or near the crime scene, including but not limited to evidence of any "clean up" of the crime scene. The Arkansas Court of Appeals has indicated that such enlarged and enhanced images should be admissible. *See, e.g., Tarkington v. State*, 1983 WL 945, *1 (Ark. App. 1983) ("an enlargement [is] admissible in evidence if the original reproduction is in existence and available for inspection under direction of the court"). Similarly, the Arkansas Supreme Court has upheld the use of digital techniques to improve the clarity and usefulness of still photographs. *Nooner v. State*, 322 Ark. 87, 104-105, 907 S.W.2d 677, 686 (Ark. 1995), *cert. denied*, 517 U.S. 1143 (1996). In *Nooner*, the

State's experts engaged in significant manipulation of still images obtained from a videotape; they "softened the pixels on the suspect's face to [remove] graininess" in one image, and also "multiplied the pixels per square inch to improve the contrast and adjusted the brightness" in another. The Arkansas Supreme Court, declaring that "[r]eliability must be the watchword in determining the admissibility of enhanced videotape and photographs, whether by computer or otherwise," ultimately upheld the admission of such images as long as they are confirmed by expert testimony to be "reliable representations." *Id.*, citing 3 C. Scott, PHOTOGRAPHIC EVIDENCE § 1295 (2d ed. 1969 & Supp. 1994); *see also Harris v. State*, 862 S.W.2d 271, 272 (Ark. 1993) (allowing the use of enlarged photographs where they clarified "the nature of the weapon used, and the manner of its use"); *English v. State*, 422 S.E.2d 924 (Ga. App. 1992) (comparing the admissibility of computer-enlarged photographs from videos to the use of photographic enlargements, and concluding that where the evidence establishes there is no distortion of the images on the original videotape, then the computer-enhanced photographic stills of those images are admissible).

Mr. Echols is prepared to present additional expert testimony to support the reliability of the currently accepted scientific technique he proposes to employ. For all these reasons, this Court should grant Mr. Echols's request to apply currently accepted scientific techniques to the crime scene photographs.

CONCLUSION

For all the foregoing reasons, petitioner DAMIEN WAYNE ECHOLS respectfully requests that this Court grant him leave to employ on the physical evidence in this case the currently accepted forensic technologies described supra, which were unavailable at the time of trial. Mr. Echols also requests a

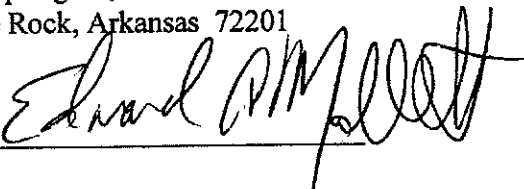
hearing to determine the location of all evidence which might be subject to such testing² and to make the showings required under Ark. Code Ann. § 16-112-202, and a hearing under Ark. Code Ann. § 16-112-205. Mr. Echols also moves the Court to grant such other relief as law and justice may require.

Respectfully submitted,

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² As noted, counsel for the parties presently expect that a comprehensive inventory of all physical evidence in this case will be completed during the week of May 19, 2003. Thus, the Court may wish to defer ruling on Mr. Echols's request for a hearing regarding the location of all potentially testable

evidence until after that time.

First Supplement to Motion for
Forensic Testing (Echols)

EXHIBIT 1



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January 5, 1994

Brent A. Wheeler
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SERVICES

- Forensic Drug Chemistry
- Forensic Pathology
- Forensic Serology
- Trace Evidence Examination
- Firearms/Toolmarks Examination
- Crime Scene Investigation

Re: Case 01A-94HV00203
James Michael Moore, subject
Steve Edward Branch, subject
Christopher Mark Byers,
subject
Damien W. Echols, suspect
Jason Baldwin, suspect
Jessie Misskelley, suspect

MEMORANDUM: To File

BY : John H. Kilbourn, Forensic Scientist IV

SUBJECT : Examination of Physical Evidence

At the request of Arkansas Prosecuting Attorney Brant Davis, this examiner and Forensic Scientist Rodger Morrison assisted the Arkansas Crime Laboratory in the examination of various items of evidence in the above styled case. The initial examination of the evidence was conducted at the Arkansas Crime Laboratory in Little Rock, Arkansas. Present and assisting during the examinations in Little Rock was Criminalist Lisa Sakevicius. Criminalist Sakevicius also assisted in the selection of the items of evidence to be examined. Items of evidence were also brought to the Huntsville Regional Division of the Alabama Department of Forensic Sciences for examination and analysis. The following is a list of items of evidence examined and the results of the examination of these items:

- K1 - Four (4) microscope slides bearing numerous hairs with each slide identified as the known hair of Steven Branch.
- K2 - Three (3) microscope slides bearing numerous hairs with each slide identified as the known hair of Christopher Byers.



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- K3 - Four (4) microscope slides bearing numerous hairs with each slide identified as the known hair of James Moore.
- K4 - Nine (9) microscope slides bearing numerous hairs with each slide identified as known hair from Damien Echols.
- K5 - Three (3) microscope slides each bearing hairs and each slide identified as the known hair of Jason Baldwin.
- K6 - One (1) microscope slide bearing hairs and identified as the known hair of Jessie Misskelley.
- K7 - Three (3) microscope slides each bearing hairs and each slide identified as from Mr. Dodson.
- Q1 - One (1) microscope slide bearing one hair. This slide was labeled "93-05717 FP5 QH shaved hair Branch".
- Q2 and Q3 - One (1) microscope slide bearing two hairs. This slide was labeled "93-05717 FP5 QH shaved Branch LS 5-20-93".
- Q4 - One (1) microscope slide labeled "9305716 E5 QH Boy Scout Cap LS 5-18-93" and bearing two hairs.
- Q5 - One (1) microscope slide labeled "93-05716 E 148 QH inside shoe LS 10-14-93" and bearing one hair.
- Q6 - One (1) microscope slide labeled "93-05716 E127LS1 QH Tree (root stump) LS 6/9/93" and bearing one hair.
- Q7 - One (1) microscope slide labeled "93-05716 E134 QH LS 6-14-93" and bearing one hair.
- Q8 - One (1) microscope slide labeled "93-05716 E148 QH shoe lace LS 10-14-93" and bearing one hair.
- Q9 - One (1) microscope slide labeled "93-05718 FP8 QH ligature Burns LS 5-18-93" and bearing one hair.
- Q10 - One (1) microscope slide labeled "93-05718 FP6 QH lower leg vict. LS 5-14-93" and bearing one hair.

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December 10, 1993, this examiner received via UPS from Criminalist Sakevicius the following items of evidence:

- K8 - One manila envelope containing two microscope slides with mounted hairs and labeled "9305716 E168 KHH Murray".
- K9 - One envelope containing hair and labeled in part "E-155 Melissa Byers".
- K10 - One envelope containing hair and labeled in part "E-156 Steve Branch".
- K11 - One envelope containing hair and labeled in part "E-157 Sherri Branch".
- K12 - One envelope containing hair and labeled in part "E-158 Diana M. Moore".
- K13 - One envelope containing hair and labeled in part "E-159 Terry W. Hobbs".
- K14 - One envelope containing hair and labeled in part "E-160 Ryan Clark".
- K15 - One envelope containing hair and labeled in part "E-161 Amanda Hobbs".
- K16 - One envelope containing hair and labeled in part "E-162 Pamela Hobbs".
- K17 - One envelope containing hair and labeled in part "E-163 Diana Moore".
- K18 - Two envelopes containing hair and labeled in part "E-168 Ricky L. Murray".

The following samples were examined and compared:

- Q11 - One microscope slide bearing two fibers and labeled "93-05716 E134 QF Black Polyester match w/E 78".
- Q12 - One microscope slide bearing a fiber and labeled "93-05716 E134 QF Blue Polyester Match w/E109A".
- Q13 - One microscope slide bearing a fiber and labeled "93-05716 E5 QF green polyester Match w/E97".

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- Q14 - One microscope slide bearing a fiber and labeled "93-05716 E2 QK red rayon match w/E99".
- Q15 - One microscope slide bearing two fibers and labeled "93-05716 E9 QF blue green cotton match w/E79".
- Q16 - One microscope slide bearing one fiber and labeled "9305716 E1 QF Red cotton match w/E92".
- Q17 - One microscope slide bearing three red fibers and labeled "9305716 E3 QF red cotton match w/E92".

Criminalist Sakevicius submitted to this examiner numerous small manila envelopes each containing a microscope slide with sticky tape adhering. Adhering to the sticky tape were numerous hairs and fibers. The envelopes are labeled as follows and were identified as known standards:

- K19 - "D1 Damien Echols residence bedroom green blanket electric blanket".
- K20 - "D5 Damien Echols Residence Bedroom closet purple dress".
- K21 - "D7 Residence Damien Echols black T-shirt closet".
- K22 - "D8 blue green shirt closet E79".
- K23 - "D9 blue green shirt closet".
- K24 - "D10 purple shirt closet".
- K25 - "D11 red/white stripped shirt-closet".
- K26 - "D12 red bandana bedroom".
- K27 - "D14 Black T-shirt closet".
- K28 - "D15 purple T-shirt".
- K29 - "D16 Red Sweater".
- K30 - "D18 black T-shirt bed".
- K31 - "D20 2 black shirts, 1 red shirt, 1 black jeans bathroom dryer".

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- K32 - "D22 red white shirt master bedroom".
- K33 - "D23 carpet from living room green".
- K34 - "D24 green socks-chest by kitchen E93".
- K35 - "D25 black shirt E94".
- K36 - "D27 green blanket Grandma's bedroom No E#".
- K37 - "J15 Toilet covers E109".
- K38 - "DT1 pink blanket back bedroom".
- K39 - "J1 carpet-bedroom".
- K40 - "J3 purple garment E97".
- K41 - "J4 blue housecoat".
- K42 - "J5 Red garment".
- K43 - "J7 Red purple carpet closet shelf".
- K44 - "J8 Light blue pad".
- K45 - "J10 black clothing from drawer".
- K46 - "M2 purple bandana black shirt".
- K47 - "M6 4 shirts from brown case".
- K48 - "M7 three shirts 1 short drawer".
- K49 - "M8 green plaid shirt from closet".
- K50 - "M10 red long Johns purple shirt".
- K51 - "Orange chair @ P.D. background fibers".

Also submitted were numerous manila envelopes each containing fibers or a piece of fabric and identified as from the victims' clothing. These were labeled as follows:

- K52 - "93-05716 E1 blue boy scout shirt".

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- K53 - "93-05716 E2 shirt-black & white check surface dye".
- K54 - "93-05716 E3 blue pants".
- K55 - "93-05716 E4 white shoe, right".
- K56 - "93-05716 E5 cub scout cap".
- K57 - "93-05716 E6 shoe".
- K58 - "93-05716 E8 black right shoe black & purple fibers".
- K59 - "93-05716 E9 shirt black & white striped".
- K60 - "93-05716 E10 underwear multicolored".
- K61 - "93-05716 E12a shoe".
- K62 - "93-05716 E12b sock".
- K63 - "93-05716 E72 std".
- K64 - "93-05716 E73 std".
- K65 - "93-05716 E76 std".
- K66 - "93-05716 E78 std".
- K67 - "93-05716 E79 std".
- K68 - "93-05716 E82 std".
- K69 - "93-05716 E88 std".
- K70 - "93-05716 E90 std".
- K71 - "93-05716 E90 std".
- K72 - "93-05716 E93 std".
- K73 - "93-05716 E94 std".
- K74 - "93-05716 E96b std".
- K75 - "93-05716 E96e std".
- K76 - "93-05716 E96i std".

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- K77 - "93-05716 E96j std".
- K78 - "93-05716 E96k std".
- K79 - "93-05716 E97 std".
- K80 - "93-05716 E98 std".
- K81 - "93-05716 E101 std".
- K82 - "93-05716 E102 std".
- K83 - "93-05716 E102 std".
- K84 - "93-05716 E104d std".
- K85 - "93-05716 E104e std".
- K86 - "93-05716 E110 std".
- K87 - "93-05716 E110 std boot lace".
- K88 - "93-05716 E112a std".
- K89 - "93-05716 E112 b std".
- K90 - "93-05716 E113 std".
- K91 - "93-05716 E114 std".
- K92 - "93-05716 E116a std".
- K93 - "93-05716 E116b std".
- K94 - "93-05716 E116d std".
- K95 - "93-05716 E117b std".
- K96 - "93-05716 E117c std".
- K97 - "93-05716 E117c std".
- K98 - "93-05716 E117d std".
- K99 - "93-05716 E122a std".
- K100 - "93-05716 E131b std".
- K101 - "93-05716 std. of blanket from mortuary".

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The following samples consisted of soil contained in manila envelopes. These envelopes were labeled as follows:

- Q18 - "E7 - Jeans".
- Q19 - "E13 - blue denim jeans".
- Q20 - "E1 - blue shirt".
- Q21 - "E2 - shirt-black & white check".
- Q22 - "E3 - blue pants".
- Q23 - "E4 - shoe, white".
- Q24 - "E5 - cub scout cap".
- Q25 - "E6 - shoe".
- Q26 - "E8 - black shoe".
- Q27 - "E9 - shirt-black & white stripe".
- Q28 - "E10 - underwear red".
- Q29 - "E11 - shoe white left".
- Q30 - "E14 - shoe".
- Q31 - "E12 - shoe & sock".
- Q32 - "LS3 - wooden stick".
- Q33 - "FP6 - soil from ligature".
- Q34 - "FP8 - soil from ligature".

The following samples were examined and compared for footwear comparisons:

- Q35 - Two cardboard boxes labeled in part "E15 & E16 plaster cast footprint" and each containing a plaster cast of a footwear impression.
- K102 - One sealed paper bag labeled in part "E149 white tennis shoes removed from Buddy Lucas 10-14-93 93-05716" and containing one pair of "Converse" tennis shoes.

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- K103 - One sealed paper bag labeled in part "one pair BLK/white tennis shoes recovered from Buddy Lucas 10-14-93 93-05716" and containing one pair of black and white "Converse" tennis shoes.
- K104 - One sealed cardboard box labeled in part "93-05716 Q127 Q128" and containing one pair of Black "Reebok" tennis shoes.
- K105 - One sealed bag labeled in part "shoes recovered from Buddy Lucas that belonged to Jessie Misskelley recovered 6-10-93 9305716 E139 LS" and containing one pair of "Adidas" white and blue high top tennis shoes.
- K106 - One cardboard box labeled in part "93-05716 E91, 95, 129, 110, 105 and containing:
- K107 - One paper bag labeled "E-105 white tennis shoes from Jason's 93-05716 Q74 Q75" and containing one pair of purple and white "Nike" shoes.
- K108 - One paper bag labeled "E110 pair green lace up boots from Jason's 9305716 E110" and containing one pair of green canvas and rubber boots.
- K109 - One paper bag labeled "pair black boots from Damiens belongs to Jason Baldwin 6-3-93 9305716 E91 LS" and containing one pair of black boots.
- K110 - One paper bag labeled "boots worn by Damien Echols at time of arrest 6-3-93 93-05716 E129" and containing one pair of black boots.
- K111 - One paper bag labeled "black tennis shoes from Damiens 6-3-93 9305716 E95" and containing one pair of "Reebok" black tennis shoes.
- Q36 - One clump of soil bearing a footwear impression and identified as recovered from scene.

RESULTS:

Hair Comparisons:

Items Q1-Q9 were examined and compared to the known samples submitted. Q1 and Q2 consisted of two hairs with razor cut proximal ends. These hairs exhibit some similarities to both the known hair of Echols (K4) and Dodson (K7). These hairs could have originated from one of these individuals or another individual whose hair exhibits similar microscopic characteristics.

Q10 consisted of one hair exhibiting microscopic characteristics consistent with the known hair of Echols (K4). This hair could have originated from Mr. Echols or another individual whose hair exhibits similar microscopic characteristics.

The remaining Q hair samples were either dissimilar to the known hairs of the suspects or in this examiner's opinion lacked sufficient microscopic characteristics for an adequate comparison.

Fiber Comparisons:

Numerous fiber examinations and comparisons were conducted. Samples Q18-Q34 were examined for fibers. These fibers were removed for comparison with the known samples. The questioned fibers which were matched to the known fibers are as follows:

Q11 consisted of two black polyester fibers. One of these were flattened and identified by Criminalist Sakuvicus as having been done during her analysis. These polyester fibers were found to be consistent with the known polyester fibers in item K66.

Q12 was determined to be a blue polyester fiber and to be consistent with the known fibers in item K37.

Q13 was determined to be a green polyester fiber. The fiber had been partially flattened. The fiber was found to be consistent with the known fibers in item K22.

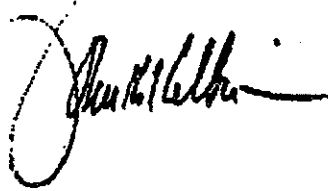
Q14 consisted of a red rayon fiber which had been partially flattened. The fiber was found to be consistent with the known fibers in item K42.

No comparisons were conducted on the cotton fibers found in items Q15-Q17.

Footwear Comparisons:

The plaster casts of the footwear impressions (Q35) and the impression in the soil (Q36) were consistent with having been made by a tennis-type shoe sole. In this examiner's opinion these impressions were not made by the submitted footwear (items K102-K111).

JHK:yt



CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing *First Supplement to Echols Motion for Forensic DNA Testing, Asserting Additional Factual and Legal Grounds Justifying Additional Forensic Testing Unavailable at the Time of Trial*, upon counsel for the State by placing the same into the United States Mail, first-class postage prepaid, addressed to:

Hon. Brent Davis
Prosecuting Attorney
P.O. Box 491
Jonesboro, AR 72403

this 19th day of May, 2003.

Edward A. McCall