

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

DAMIEN WAYNE ECHOLS,

Petitioner,

vs.

STATE OF ARKANSAS,

Respondent.

) CR-93-450A

) **AFFIDAVIT OF DONALD M. HORGAN**

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State of California

County of San Francisco

I, Donald M. Horgan, hereby declare under penalty of perjury under the laws of the state of California as follows:

1. My name is Donald M. Horgan. I reside in San Francisco, California. My date of birth is April 22, 1953. I am an attorney duly licensed to practice law in California. My state bar number is 121547. I am a partner in the firm of Riordan and Horgan and an attorney of record for petitioner Damien Echols.

2. Paragraphs 1, 4, 5, 9, and 11 in section II.B. of the accompanying motion for a new trial identify various reports issued by the Bode Technology Laboratory in Virginia. I am personally aware that copies of each of those reports were received in the offices of Riordan & Horgan shortly after the dates on which they were issued. True and exact copies of the reports accompany the motion and are designated as stated in the cited paragraphs.

3. As stated in paragraph 10 of section II.B. of the motion, on August 16, 2007, Amy Jeanguenat, a DNA analyst at the Bode Technology Laboratory, sent me an e-mail concerning relevant DNA test results. A true and exact copy of the correspondence accompanies the motion as exhibit V-1.

4. In February, 2007, our office received various evidentiary items from Inquisitor, Inc., in Memphis, Tennessee, as described in paragraphs 13 and 14 in section II.B. of the accompanying motion. Our office maintained those items in their original packaging following their receipt. On February 15, 2007 and March 7, 2007, our office transmitted the items via Federal Express to Thomas Fedor with accompanying instructions, as described in section II.B., paragraph 14 of the motion.

5. Similarly, in late May, 2007, our office received additional evidentiary items from Inquisitor, Inc., as described in paragraphs 20 and 21 in section II.B. of the motion. Our office again maintained those items in their original packaging following their receipt. On June 12,

2007, our office transmitted the items via Federal Express to Mr. Fedor with accompanying instructions, as described in paragraph 21 in section II.B. of the motion.

Paragraphs 15 and 22 in section II.B. of the accompanying motion identify the reports

accompany the motion and are designated as stated in paragraphs 15 and 22 of the motion.

7. In a letter to counsel for all three defendants sent on June 25, 2007, Mr. Davis stated that he had instructed personnel at the state crime lab to send the known hair samples from Terry Hobbs to Bode for testing and that he expected that transmission to occur shortly. In a telephone conversation on October 26, 2007, an analyst at the Bode laboratory informed me that Bode had not received from the state crime lab any hair samples for Terry Hobbs. On today's date, the same analyst informed me that Bode has yet to receive any hair samples for Terry Hobbs.

8. On August 2, 2007, Mr. Davis transmitted to our office transcripts of interviews conducted by state authorities with David Jacoby, Terry Hobbs, Pam Hobbs, Lo Lynn McCaughey, and Terry Anderson in June, 2007. Mr. Davis subsequently provided our office with videotapes of the Jacoby, Terry Hobbs, Pam Hobbs, and McCaughey interviews, and an

11. In her state interview, Jo Lynn McCaughey stated that several years ago, she had discovered fourteen knives in a night stand at the residence of Terry Hobbs. She stated that her father had later identified the knife as a pocketknife he had given to Steven Branch. Ms. McCaughey said she subsequently provided the knives to Mr. Dan Stidham.

12. In her state interview, Pam Hobbs stated that after Terry Hobbs picked her up from work on May 5, 1993, he said he had been in the woods earlier that day. She also confirmed that she had previously harbored suspicions that Terry Hobbs had been involved in the homicides. She recounted Jo Lynn McCaughey's discovery of certain knives at the residence of Terry Hobbs, one of which was a pocketknife given to Steven Branch by Pam Hobbs' father. Pam Hobbs stated that Steven carried the knife all of the time and believed he would have had it on the day of his death.

13. In his state interview, Terry Anderson, a West Memphis police officer in May, 1993, described his activities at the crime scene shortly after the discovery of the victims' bodies in Robin Hood Hills on May 6, 1993. In that connection, Mr. Anderson recounted his discovery of a fingerprint or other type of print in the mud. Mr. Anderson stated that the print was located within five to ten feet of the first body discovered at the scene. He stated that the print was at an angle that made clear it had been left by someone who had been in the water. Mr. Anderson said he compared the print to Echols, Misskelley, and Baldwin, as well as every police officer at the scene, and found no match.

14. Paragraphs 6, 12, 25, and 26 in section II.D. of the accompanying motion identify reports issued by certain forensic experts retained by the defense in this matter. I am personally aware that copies of each of those reports were received in the offices of Riordan & Horgan shortly after the dates on which they were issued. True and exact copies of the reports accompany the memorandum and are designated as stated in the relevant paragraphs of the memorandum.

15. Paragraphs 2, 7, 11, and 15 in section II.D. of the accompanying motion describe

other expert forensic expert reports provided to our office. I am aware of the timing and contents of those reports and they are stated in those paragraphs of the motion.

16. Paragraph 16 in section II.D. of the accompanying motion discusses a draft report issued by Dr. Robert Wood in May, 2007. The contents of that report are likewise as stated in paragraph 16.

17. Paragraphs 13 and 18 in section II.D. of the accompanying motion discuss meetings conducted in February and May, 2007 in Jonesboro, Arkansas, involving, among others, counsel for the defendants and prosecutor Brent Davis. I attended those meetings, and they were as they are described in paragraphs 13 and 18.

18. Paragraphs 14, 17, 19, 20, 23, and 24 in section II.D. of the accompanying motion discuss various items of correspondence between and among various parties. I am aware of the content of such correspondence and it is as described in those paragraphs. True and exact copies of the correspondence accompany the motion and are designated as stated in the cited paragraphs.

19. Defense counsel transmitted payment for the victim tissue slides to the Arkansas crime lab on July 24, 2007. The crime lab transmitted the slides to defense expert Werner Spitz on September 7, 2007.

20. As of the date of filing the present petition, we have received no information from the Arkansas crime lab on past cases involving corpses submerged in water (or any other information).

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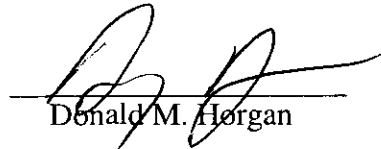
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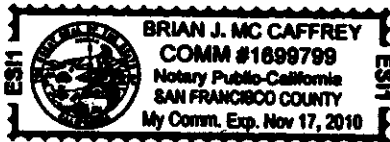
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21. As of the date of filing the present motion, Dr. Peretti has provided the defense with no response to the questions on forensic issues set forth by counsel for defendant Echols in the letter to Dr. Peretti sent on October 4, 2007.

Executed this 11th day of April, 2008, at San Francisco, California.


Donald M. Horgan

Subscribed and sworn to before me on this 11th day of April, 2008, by Donald M. Horgan, proved to me on the basis of satisfactory evidence to be the person who appeared before me.



Signature 