

1           THE COURT: Okay, so you're going to introduce the  
2 two files that she's testified to, by agreement?

3           MR. BURT: Yes, sir.

4           THE COURT: All right, they'll be received.

5           MR. BURT: And anything else that they want; I  
6 mean, if they want more, we can figure that out.

7           THE COURT: Is this a joint submission?

8           MR. BURT: I think that will be appropriate.

9           THE COURT: Okay.

10 (WHEREUPON, Joint Exhibit # was admitted and received into  
11 evidence and is appended on page.)

12           THE COURT: Call your next witness.

13           MR. BURT: That will be Mr. Phillipsborn.

14           THE COURT: Well, are y'all going to object to  
15 this?

16           MR. HOLT: No.

17           THE COURT: All right, go ahead, then.

18           MR. RAUPP: He wasn't on the list.

19           MR. HOLT: He wasn't on the list.

20           THE COURT: Well, I think we've got a rule that in  
21 Arkansas, the lawyer involved in the case cannot  
22 testify.

23           MR. BURT: Well, I wasn't aware of that.

24           THE COURT: Am I not right on that?

25           MR. RAUPP: Is he testifying in the Misskelley

1 case?

2 MR. BURT: He's testifying on behalf of Mr. Miss-  
3 kelley; in other words, he's not being offered on  
4 Baldwin.

5 THE COURT: All right, I don't care. Go ahead.  
6 (Witness sworn.)

7 THE COURT: It's just possibly an ethical  
8 violation in Arkansas, but maybe not. I don't know.  
9 At one time it was.

10 THEREUPON,

11 JOHN PHILLIPSBORN  
12 was called as a witness by and on behalf of the Petitioner/  
13 Defendant and having been duly sworn was examined and testified  
14 as follows, to-wit:

15 DIRECT-EXAMINATION

16 BY MR. BURT:

17 Q] State your name, please?

18 A] John Phillipsborn.

19 Q] And Mr. Phillipsborn, you just heard the testimony of Ms.  
20 Pemberton; correct?

21 A] Yes.

22 Q] Were you somehow involved in securing Mr. Channell's lab  
23 notes?

24 A] Yes.

25 Q] Could you tell the Court the circumstances?

1 A] Counsel for Mr. Echols, Mr. Misskelley and Mr. Baldwin,  
2 your Honor, met with police personnel, with Kermit Channell from  
3 the Crime Laboratory, with Mr. Davis and other persons in a  
4 conference room at the West Memphis Police Department and, uh,  
5 we reviewed a series of binders that were identified to us as  
6 Lisa Sakeviceus' notes. We requested a copy of those notes; we  
7 then met after that on the next day or the day after that with  
8 Mr. Channell as our host, at the Arkansas Crime Laboratory, in a  
9 large conference room, uh, Mr. Channell had arranged to lay out  
10 the material from the Crime Laboratory and he was asked to  
11 assist us in producing, or in obtaining notes from the medical  
12 examiner's office and other laboratory, uh, notebooks that were  
13 kept, related to the case, included, I believe his notes and  
14 notes kept by his spouse, who is a criminalist. And, uh, after  
15 that meeting, uh, sometime later, a box of materials arrived in  
16 my office, directed to my attention, uh, very neatly organized  
17 with a cover letter from the Arkansas Crime Laboratory identify-  
18 ing the material as copies of the laboratory notebooks,  
19 including hair slides, uh, and all other material that we had  
20 been shown in those two days of meetings.

21 Q] And then did you distribute the material in the box to  
22 other lawyers involved in the case at that time?

23 A] Yes, sir, including, I believe, Mr. Davis' office, which  
24 had requested that we provide a copy of what we had obtained.  
25 And I did that as well.

1           MR. BURT: I pass the witness.

2           MR. HOLT: No questions.

3           THE COURT : For the record, Lisa Sakeviceus is  
4           deceased. Did she testify in the original case? I  
5           can't remember.

6           MR. BURT: Yes, she did.

7           THE COURT: I thought she did.

8           MR. BURT: Both cases. And Your Honor, at this  
9           point, those are the witnesses for today.

10          THE COURT: Y'all are wasting my time. We've got  
11          a whole, another hour here.

12          MR. PHILLIPSBORN: Your Honor, and to be quite  
13          frank with you, this is my fault and the quick story  
14          is simply there are lay witnesses that the Court can  
15          expect to hear from this morning, some of whom I had  
16          to assist in arranging to take off from work.

17                 I was going to present some of them on Wednesday  
18          and my apologies to the Court, uh, we scrambled to get  
19          to these so we could get finished with hearings this  
20          week.

21                 So I apologize to you but we're, I think, pretty  
22          intent on getting in all of our evidence by tomorrow  
23          afternoon.

24          THE COURT: All right, that will work fine. In  
25          the morning at 9:30, then. Court will be in recess.

1 (WHEREUPON, a recess was taken August 13, 2009; proceedings  
2 resumed August 14, 2009, 9:30 a.m.)

3 **AUGUST 14, 2009**

4 MR. PHILLIPSBORN: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. PHILLIPSBORN: Your Honor, our next witness  
7 will be Ms. Ware.

8 THE COURT: Raise your right hand and be sworn.  
9 (Witness sworn.)

10 THEREUPON,

11 SALLY WARE

12 was called as a witness by and on behalf of the Petitioner/  
13 Defendant and having been duly sworn was examined and testified  
14 as follows, to-wit:

15 DIRECT-EXAMINATION

16 BY MR. PHILLIPSBORN:

17 Q] Ma'am, would you be kind enough to state your full name,  
18 and spell your last name, please?

19 A] Sally Ware, W-A-R-E.

20 Q] What is your current occupation, Ms. Ware?

21 A] I am a retired teacher and current artist.

22 Q] Now you say you're a retired teacher; where did you teach  
23 during your career?

24 A] I taught for twenty-three years at Marion High School and  
25 for two years at East Tennessee State University and for three