

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

1 years at Marianna, Arkansas and two years at Oakhaven Baptist
2 Academy in Memphis.

3 Q] Now ma'am, you mentioned having spent a considerable amount
4 of time at Marion High School. When was it you were employed
5 there?

6 A] From 1979 to 2002.

7 Q] And do you recall whether you were working as a full-time
8 teacher in the 1992 and 1993 school year?

9 A] Yes, sir, I was.

10 Q] What did you teach, Ms. Ware?

11 A] I taught high school art.

12 Q] And I want to ask you just a few things about Marion High
13 School, uh, how large a school was the school in 1992, 1993
14 year?

15 A] I would say approximately five hundred students, uh, around
16 there, maybe up closer to six hundred.

17 Q] Now the school, uh, the school day, uh, can you describe
18 for the Court the, uh, length of the school day and how it was
19 organized; was it organized by school periods?

20 A] Yes, sir. There were seven periods in the school day and
21 it started around 8:05 and ran until 3:15. Each period lasted
22 approximately fifty to fifty-five minutes, with around forty to
23 forty-five minutes for lunch.

24 Q] And, uh, the classes you taught, Ms. Ware, did you teach
25 them every period of the day; how many - - and again, I want to

1 be clear with you, ma'am and I'm focusing my questions on, uh,
2 the 1992, spring of 1993 school year. How often were you teach-
3 ing your art class?

4 A] I taught six out of seven periods. My planning period was
5 fourth period, which took place right before lunch.

6 Q] Now do you recall whether in the spring of 1993 you had a
7 student in any of your classes named Jason Baldwin?

8 A] Yes, sir, I did.

9 Q] And do you see that person here today?

10 A] Yes, sir, I do.

11 Q] And can you tell the Court where he is located and what he
12 is wearing?

13 A] Yes, sir, he's right there (pointing) with the glasses and
14 the plum colored shirt.

15 MR. PHILLIPSBORN: Your Honor, identifying Mr.
16 Baldwin.

17 THE COURT: All right, it may reflect.

18 DIRECT-EXAMINATION, continuing:

19 Q] Now, uh, do you happen to recall what period, what class-
20 room period you had contact with Jason Baldwin as an art student
21 in, in the spring of 1993?

22 A] Yes, he was in my sixth period class.

23 Q] And, and, uh, when would that have been?

24 A] That would have been from approximately 1:20 to around
25 2:15.

1 Q] And again, just in terms of, of your memory of the school
2 policy, uh, who was charged with taking attendance at, at the
3 school; was there, uh, uh, was there some kind of an arrangement
4 by which individual teachers would actually account for her,
5 their students, uh, at a given period; for example, would you
6 account for all of the students who were signed up for your art
7 class in sixth period?

8 A] Yes, sir, I would. I took attendance every day by calling
9 the student's name and looking at the student in the face to
10 make sure that particular student was answering to me. The
11 teachers were responsible for taking attendance and their grade
12 book was the bottom line. The attendance record in the grade
13 book was what they based attendance on.

14 Q] And I think you just made this clear, but, so if someone
15 needed to know, the school official or anyone else needed to
16 know if a student had been in school on a given day of the week
17 in each one of the classes in which she or he was signed up, you
18 could go to that teacher's book and actually see whether or not
19 the class had been attended?

20 A] Yes, sir, you could.

21 Q] Was the spring of 1993 the first time you had had contact
22 with Jason Baldwin as a, uh, as a student?

23 A] No, sir, Jason had been in my class in '91 and '92 under
24 Art I. And then he was in my class again in '92-'92 in Art II.

25 Q] Do you remember whether there was anything about Jason

1 Baldwin that stood out as far as you were concerned; in other
2 words, uh, do you have a specific memory now many years after
3 having taught him, about Jason Baldwin?

4 A] Yes, I do. He was very well-mannered, very polite, always
5 respectful, always nice and kind.

6 Q] And, uh, as far as you can recall, how regular was his
7 attendance in your classes?

8 A] He was there, I would say, eighty-five to ninety percent of
9 the time; he was there most of the time.

10 Q] Now do you recall during the spring of 1993 hearing about a
11 highly tragic and unusual event that had occurred in West
12 Memphis, uh, that was reported as the killings of three boys in
13 Robin Hood Hills or Robin Hood woods?

14 A] Yes, sir, I did.

15 Q] And do you recall, uh, do you recall when you heard about
16 it?

17 A] Yes, sir, I recall the evening I heard about it and where I
18 was at the time and what I was doing.

19 Q] And where was that?

20 A] That was in the art room of Marion High School; I was
21 teaching a night class.

22 Q] Now do you recall whether after hearing, first hearing
23 about this event, uh, whether there was discussion at the school
24 that you had with your colleagues about the night, in general?

25 A] Yes, sir, there was.

1 Q] And, and do you recall, uh, whether Jason Baldwin continued
2 to attend school after you heard about these, uh, killings?

3 A] Yes, sir. He was in class.

4 Q] Uh, do you recall whether Jason Baldwin was in class during
5 the week that these killings were first reported?

6 A] Yes, sir, I do recall.

7 Q] And how is it you recall that?

8 A] The art exhibit was on May 2nd and he was in class Monday,
9 May 3rd; Tuesday, May 4th; Wednesday, May 5th; Thursday, May 6th
10 and Friday, May 7th. And I recall that he was there everyday,
11 without a doubt and without question. He helped me take down
12 the exhibit on Monday and he was happy because he had won one of
13 the art awards. He was in class every day the week of the
14 murders.

15 Q] Now, uh, how much contact would you have with individual
16 students in the sixth period art class; in other words, how, how
17 much opportunity would you have to have contact with Jason Bald-
18 win during the course of a given period, uh, of art class?

19 A] That sixth period was one of my smaller classes and I would
20 see each student at least twice and spend some time with more
21 students, depending on their needs during each class.

22 Q] Do you recall, uh, observing or noticing anything about
23 Jason Baldwin, uh, that caught your attention that seemed
24 unusual after you first were notified of the, uh, killings in
25 Robin Hood Hills?

1 A] No, sir.

2 Q] Do you recall his behavior changing in any way after you
3 heard the report of the killings?

4 A] No, sir, I didn't.

5 Q] Now as far as you can recall, when was the school term end;
6 again, calling your attention to the year 1993, when would the
7 students have ended their classes?

8 A] It was usually toward the end of May. I remember the
9 teachers were at school in early June of that year, around the
10 first or second or third.

11 Q] And, uh, as, as far as you can recall, did Jason Baldwin
12 continue to regularly attend your class up to the end of that
13 school year?

14 A] Yes, sir, he was there.

15 Q] Now do you recall - - let me withdraw that and start again.
16 When you first heard of the events, uh, surrounding the, uh, the
17 killings of the three boys, as far as you understood it, had any
18 individuals been arrested at the time you first heard about this
19 event?

20 A] No, not at that time.

21 Q] And, and generally, so that we, uh, understand the context
22 in which, uh, you heard, uh, of later events, uh, what do you
23 recall hearing about when you first heard about the, uh,
24 killings of the three boys; what kind of information do you
25 recall hearing?

1 A] Do you mean as far as what I heard about how they were
2 killed, or anything?

3 Q] Exactly. What was your, what, what information had been
4 made available to you by the communications you heard?

5 A] That three eight-year-old boys had been bound and murdered
6 in Robin Hood woods and that one of them had been mutilated and
7 there was implications that one of them had been sexually muti-
8 lated.

9 Q] Uh, do you recall whether, as far as you knew in connection
10 with whatever information you had obtained, uh, initially, uh,
11 were there any suspects as far as you knew?

12 A] Not at the time of the murders, not around that time. No,
13 sir.

14 Q] And by asking those questions, I mean, did you have any
15 reason to suspect that anybody in any of your classes was being
16 viewed as a suspect when you first heard the news about the
17 three boys?

18 A] No, sir, not at all.

19 Q] Did there come a time later on when you heard that persons
20 had been arrested in connection with the killing?

21 A] Yes, sir.

22 Q] Do you recall where you were when you heard?

23 A] Yes, sir. I was at the high school in the art room.

24 Q] And, uh, how is it that you heard?

25 A] Maple Scott, one of my students, came in and said that they

1 had found those three little boys in Robin Hood woods, they had
2 found the bodies. And she looked upset because she had heard
3 the details.

4 Q] And I apologize, but I was directing my question to as, uh,
5 I think you said you had heard about the arrests of some sus-
6 pects later, after talking with Ms. Scott?

7 A] Right.

8 Q] What do you, uh, first of all, do you recall when you heard
9 that, uh, anyone was arrested in this?

10 A] Oh, yes, sir. The teachers were called to the school
11 library; they had a television in the school library and they
12 said that the police were getting ready to announce who they had
13 arrested, on television.

14 Q] And, again, at that time, had, uh, anything that you had
15 seen or heard led you to believe that any student of yours had
16 been connected in any way with the killings in Robin Hood woods?

17 A] No, sir.

18 Q] Uh, was it when you received the announcement with other
19 teachers that the police were going to announce the arrests that
20 you first heard about them arresting your student, Jason
21 Baldwin?

22 A] Yes, sir, it was.

23 Q] And, and do you recall roughly, uh, when you received that
24 information?

25 A] Yes, sir, it was, uh, before lunch, in the library in a day

1 in early June.

2 Q] Now, uh, do you recall being made aware when that announce-
3 ment was made that Jason Baldwin was one of the persons
4 arrested?

5 A] Yes, sir, I do.

6 Q] After that time, Ms. Ware, uh, did you have any contact, or
7 were you ever contacted by any law enforcement personnel, uh,
8 investigating the, uh, the case involving the killings of the
9 three boys?

10 A] No, sir, I never was.

11 Q] Do you recall ever being contacted by an individual or
12 other individuals who told you they were associated with Jason
13 Baldwin's defense?

14 A] No, sir.

15 Q] Now you knew other teachers that at the, uh, at the school
16 at Marion high school; is that fair?

17 A] Yes, sir.

18 Q] Okay. Did you know as far as you were aware, did you know
19 other teachers who had contact with Jason Baldwin?

20 A] Yes, sir.

21 Q] As far as you know, as you sit here today, uh, were any of
22 those teachers ever contacted by law enforcement personnel?

23 A] No, sir, not as far as I know.

24 Q] Were any of those teachers contacted by anybody who was
25 defending Jason Baldwin?

1 A] No, sir.

2 Q] Okay, including yourself?

3 A] Right.

4 Q] Now it sounds as though had someone contacted you and other
5 teachers who had contact with Jason Baldwin during the week of
6 May 5 and May 6, 1993, uh, that person could have gotten the
7 attendance records directly from teachers; is that fair?

8 A] Yes, sir.

9 Q] Uh, and also, could have gotten information from teachers
10 about their observations of Mr. Baldwin; is that fair?

11 A] Yes.

12 Q] Do you recall when it is you were first contacted in
13 connection with Jason Baldwin and this case?

14 A] Tom Quinn, who works with you, contacted me. You contacted
15 me.

16 Q] And, and is that the first time you were ever contacted by
17 anybody who, as far as you knew, uh, had any connection with
18 Jason Baldwin's legal case?

19 A] Yes, sir.

20 Q] Now Ms. Ware, had you been contacted in 1993 and been
21 summoned to court, would you have provided the kind of testimony
22 that you have here today?

23 A] Yes, sir, I would have.

24 Q] And, uh, would you have made known any information you had,
25 including your own records concerning Jason's attendance?

1 A] Certainly.

2 Q] And your observations of him, both before and after you
3 heard of the killings of the three boys?

4 A] Yes.

5 MR. PHILLIPSBORN: Thank you, Your Honor. I pass
6 the witness.

7 THE COURT: Mr. Burt?

8 MR. BURT: No questions, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. HOLT:

11 Q] Good morning, Ms. Ware.

12 A] Good morning.

13 Q] Let's see. I believe you completed an affidavit in this
14 particular case?

15 A] Yes, sir, I did.

16 Q] Okay. Mr. Phillipsborn essentially went over that. Could
17 you tell us a little bit more about your knowledge of Mr. Bald-
18 win's personal life?

19 A] Yes, sir.

20 Q] Okay?

21 A] Jason, uh, lived in a trailer park; he came from a family
22 that didn't have as many of the opportunities as some of my
23 other students. And I was always impressed with him because he
24 seemed to bring himself up from his surroundings. I was
25 impressed with his manners and with the way he treated other

1 people and with how respectful he was and with what a good
2 student he was. And with the fact that I did not have to use
3 any discipline on him whatsoever.

4 Q] Anything else?

5 A] No, sir.

6 Q] That's all?

7 A] Yes, sir.

8 Q] Did you know anything - - and you knew that at the time of
9 these murders?

10 A] Yes, sir.

11 Q] Anything else about his personal life. Did you know who he
12 associated with?

13 A] No.

14 Q] Did you know who his friends were?

15 A] I knew who he hung around with at school, as far as in my
16 classes.

17 Q] Okay. Do you know what he did after school?

18 A] I know that he painted some.

19 Q] What else?

20 A] That's it.

21 Q] Okay. And how do you know he painted some. Did he bring
22 it to school?

23 A] Because he brought it to school. Yes, sir.

24 Q] What else did he do?

25 A] As far as what?

1 Q] After school, to your knowledge?

2 A] I know he liked to listen to music.

3 Q] Anything else?

4 A] No, sir.

5 Q] You're sure?

6 A] Yes, sir.

7 Q] Okay. Was he a leader or a follower type?

8 A] I think he blended in well and got along with everyone. I
9 don't think that you could classify him as a leader or a
10 follower.

11 Q] If you had to make a decision, which would you say; was he
12 a leader or a follower?

13 A] Leader.

14 Q] A leader. Okay. Was he intelligent?

15 A] Yes, sir.

16 Q] Okay. So he was adept at figuring things out?

17 A] Yes, sir.

18 Q] Okay. So if you had been one of those kind of people that
19 we see on TV a lot of times when somebody is arrested and does
20 something that says "I just can't believe that this happened,"
21 you would be one of those people in this particular case,
22 wouldn't you?

23 A] Probably even more so.

24 Q] Okay. Well, did you realize that he had a string of juve-
25 nile arrests?

1 A] Not at the time.

2 Q] Okay. Well, that's why I asked you about what did you know
3 about his personal life.

4 A] Right.

5 Q] And you weren't aware of any of that, were you?

6 A] No, sir.

7 Q] And you weren't aware of the friends that he hung out with
8 or what he did after school, were you?

9 A] As far as the music and what he did in his art, I was aware
10 of, but none of the other.

11 Q] But nothing else?

12 A] No, sir.

13 Q] When he left the school grounds, you didn't know what he
14 did, did you?

15 A] No.

16 Q] You didn't watch him?

17 A] No.

18 Q] Okay. And you weren't aware that he had committed crimes
19 after school, were you?

20 A] Not at the time.

21 Q] Do you think that a person that would commit a crime like
22 this would show much emotion?

23 A] I don't think I'm qualified to answer that, sir.

24 Q] I'm just asking for your personal opinion, Ms. Ware. Do
25 you think a person who could strip three eight-year-old boys

1 naked and hog-tie them and assault them and put them in a ditch,
2 do you think a person like that would show much emotion to any-
3 thing?

4 A] I would...

5 Q] ...yes, or no?

6 A] I would have to think about that before I answered it. If
7 you want to let me sit here and think for fifteen or twenty
8 minutes, I'll be happy to do so.

9 Q] Would it take that long?

10 A] I don't know. It might take two or three hours or I might
11 need to go read the Bible before I do it.

12 MR. HOLT: That's all I have of this witness.

13 THE COURT: All right, you're free to go, ma'am.

14 (Witness excused.)

15 THE COURT: Call your next witness.

16 MR. PHILLIPSBORN: Thank you, Your Honor. May I
17 be excused into the hallway?

18 THE COURT: Sure.

19 (Pause.)

20 MR. PHILLIPSBORN: Your Honor, our next witness
21 is Mr. Sam Dwyer, who is present

22 THE COURT: All right. Raise your right hand and
23 be sworn.

24 (Witness sworn.)

25 THEREUPON,