

Jessie Misskelley

Cassell's treatment of the Misskelley case is a tour-de-force of misrepresentation, backwards logic and arguing guilt by association. We will address only Cassell's core argument, his analysis of the confession and mention a few other points, although virtually everything Cassell writes is wrong. Cassell argues that because Misskelley's confession included the names of *DAMIEN* Damion Echols and Jason Baldwin and they were convicted, Misskelley's confession is true. Not only is this argument illogical, Cassell is deceptive in his presentation of the specific facts he cites to promote it.

CASSELL'S CLAIM THAT MISSKELLEY'S CONFESSION WAS PROVED BEYOND A REASONABLE DOUBT IS ABSURD IN THAT EACH AND EVERY MISSCARRIAGE OF JUSTICE CASE IN THE HISTORY OF JURISPRUDENCE BEGAN WITH A WRONGFUL CONVICTION OF A DEFENDANT BY A JURY UTILIZING THE "BEYOND A REASONABLE DOUBT STANDARD." Cassell claims that Misskelley's confession "was proved beyond a reasonable doubt to be consistent in its most important respect: the identity of the main killers." (p19). He writes that a month after the crime "the police were struggling to solve the case when they asked Misskelley to come to the stationhouse to answer some questions. Misskelley admitted that he watched as two of his acquaintances - *DAMIEN* Damion Echols and Jason Baldwin..."(p.19) abuse the boys but left before they were killed. Cassell hopes to trick readers into presuming that Misskelley led the police to *ECHOLS* Eckols and Baldwin. Nothing could be further *FROM* form the truth. Damion *ECHOLS* Eckols was the main target of police interest from almost the start of the investigation. **THE DAY AFTER THE BODIES WERE DISCOVERED, POLICE INTERVIEWED ECHOLS BECAUSE HE WAS BELIEVED TO BE INVOLVED IN THE OCCULT. ECHOLS DENIED ANY INVOLVEMENT IN THE MURDERS AND VOLUNTARILY GAVE POLICE FINGER PRINTS AND BLOOD AND HAIR SAMPLES** (Cite - from Stidham) Misskelley was asked to come to the station because the police hoped to get from him information that would confirm that *ECHOLS* Eckols was a member of a Satanic cult, since almost from day one the killings of the boys were presumed to be Satanic cult inspired ritual murders (cite).

Although police did not record Misskelley's interrogation, his confession statement was memorialized on audio tape. Misskelley, a seventeen year borderline retarded young man

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(Cite), was threatened that he would be treated as one of the bad guys unless he co-operated with the police and told them what they were sure he knew, how Eckols and Baldwin killed the boys (Cite to R.O. interview and Gitchel's admission that the in the circle/out of the circle technique was used). Once Misskelley broke and began complying with whatever suggestions were given by the police and the story they wanted was rehearsed several times, it was decided to record Misskelley's statement.

One of the problems caused by the refusal of some police agencies to record their interrogations is that they make it almost impossible for any independent evaluator to determine how much the police contaminated the suspect by revealing crime facts and what the defendant actually knew about the crime. If contamination can not be ruled out or precisely determined by reviewing a complete record of the interrogation anything that the defendant says that is accurate that is also known to the police becomes valueless for assessing whether the defendant possess actual knowledge of the crime or is ignorant of things the perpetrator would likely know. If contamination is a problem, as it was in the Misskelley confession, there are only two classes of information that remain useful for evaluating the question of whether or not the defendant had actual knowledge of the crime. The first is information contributed by the defendant that was not known to the police (hence eliminating possible contamination) that can be objectively proven correct or incorrect. The second source of information are errors that the suspect makes about subjects that the perpetrator would certainly know, since such errors would be consistent with a lack of actual knowledge of the crime.

Cassell's claim that Misskelley's confession contained details consistent with the crime facts -- i.e. the Byers boy was already dead before he was dumped in the river, the Byers boy's body had been mutilated and one boy had a facial laceration -- were all facts well known to the investigators when Misskelley was interrogated a month after the date of the killings. Misskelley reports that during the interrogation the police told him what happened rather at the crime scene (cite to my interview). The failure of the police to record the interrogation makes the statements Cassell wishes to use as indicators of actual knowledge beyond impartial evaluation and of no use in assessing Misskelley's likely guilt or innocence.

It often happens that when police coerce a false confession, deliberately contaminate a suspect and then finally decide to make a record of their handiwork, they make the mistake of asking about something that they have not prepared the innocent (and therefore ignorant)

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suspect to answer. This may happen because the police believe that the suspect is guilty and so presume he can answer questions not previously explored, or because they are sloppy in their attempt to frame the defendant. The Misskelley interrogation is a prime example of this problem.

During the taking of the recorded confession statement Misskelley was asked about the time that the killings happened. In his first answer ***MISSKELLEY STATED THAT HE WITNESSED THE MURDERS AT NOON*** he describes the killings as happening (in the late morning -- around noontime?). This answer created a problem for the prosecutor Mr. Fogelman (now Judge Fogelman) who was supervising the interrogation and Detective Gitchel was conducting it. Both of them, but not Jessie Misskelley knew that the boys did not ***GET OUT OF SCHOOL THAT DAY UNTIL AFTER THREE P.M. AND THEY WERE LAST SEEN ALIVE AT APPROXIMATELY 6:30 P.M.*** disappear until after 5:30 pm.

It took Gitchel, under Fogelman's direction, five revisittings of this subject and appropriate pressure and suggestions to progressively move Misskelley's wrong answer to a point late enough in the day that it was after the boys had left school, finished playing on their street and were last seen.

Misskelley's confession also included the wrong facts that ----

1. Misskelley said Victims skipped school the day they were killed (they were in school until 3 p.m.)
2. Misskelley said Victims were sodomized by Echols and Baldwin (Medical examiner testified at trial that there was no trauma to the anuses of the victims)
3. ligatures that bound victims (Misskelley said a big brown rope, it was actually their own shoe laces)
4. Misskelley said victims were choked by Damien Echols with a "big 'ol stick" (medical examiner testified at trial that there were no injuries to the throats of any of the victims)
5. Misskelley said that the victims were killed on the ditch bank where they were found (Investigators admit at trial that absolutely no blood was found at crime scene.)

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Cassell brings up developments after the trial that he wrongly suggests confirm the accuracy of Misskelley's conviction. Cassell, however presents a very distorted picture of what was in fact a desperate attempt on the prosecutor's part to coerce Misskelley into testifying against Echols and Baldwin. Misskelley's so called two additional confessions were the result of the prosecutor's *DEFYING* ignoring Misskelley's attorney's instruction that he not communicate with Misskelley. The statements Cassell cites were coerced from Misskelley by the guards who transported him to prison and the prosecutor, in five separate sessions. Misskelley, recanted the statements when he finally refused to commit the perjury that the the prosecutor was will to trade for leniency. (cite - Stidham letter? to come or elsewhere)

A post trial development that Cassell does not bring up is that Misskelley's attorney continued to investigate the case even after his client's conviction and eventually discovered ***PREVIOUSLY UNKNOWN FORENSIC EVIDENCE THAT STONGLY SUGGESTS THAT THE VICTIMS WERE MURDRED BY SOMEONE OTHER THAN THE THREE CONVICTED TEENS*** (the state had withheld? or what) THIS evidence IS IN THE FORM of a bite mark on one of the victims. THE mark was located above the eye of *VICTIM* Steve ***BRANCH (NOT!!!!*** Byers (the child who was viciously mutilated). Analysis by a ***BOARD CERTIFIED*** forensic odontologist ***HAS*** excluded all three of the convicted murders as being the source of this bite mark.