

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT

DAMIEN WAYNE ECHOLS

PETITIONER

NO. CR 93-450A

STATE OF ARKANSAS

RESPONDENT

**RESPONDENT’S RESPONSE TO ECHOLS’ MOTION FOR ADDITIONAL
DNA AND OTHER FORENSIC EVIDENCE TESTING**

Comes now the State of Arkansas, by and through counsel, Scott Ellington, Prosecuting Attorney, Second Judicial District, Dustin McDaniel, Attorney General, and David R. Raupp, Senior Assistant Attorney General, and states:

The State does not object to Echols’ motion for testing.¹ The State’s accession is made on the understanding that it will bear no cost of testing, that any testing ordered will be pursuant to Ark. Code Ann. §16-112-208(a)(3) given Echols’ expressed “willingness to pay for the requested testing in this case[,]” Echols’ Mot. at 9 n.8, and that any testing otherwise will comply with the Court’s scheduling orders.²

¹Because the opinion of the Arkansas Supreme Court did not address any additional testing as to Echols, compare Echols v. State, 2010 Ark. 417, ___ S.W.3d ___, with Baldwin v. State, 2010 Ark. 412, at 2, and Misskelley v. State, 2010 Ark. 415, at 5, it is unclear whether his request should be gauged by the current or former version of the statute. Given that the State does not oppose his request, however, it is unnecessary for the Court to resolve the question.

² While the State does not oppose Echols’ motion, the State doubts his wide-ranging requests for additional testing meet the thresholds of either Ark. Code Ann.

WHEREFORE, the State does not object to Echols' motion.

§16-112-202(c)(1)(B) (Supp. 2003) or Ark. Code Ann. 16-112-202 (Repl. 2006), and believes that any testing results will not support relief under Ark. Code Ann. §16-112-208(e)(3) (Repl. 2006). As the State previously has argued, it is confident that at a hearing any testing results and other evidence will fail to establish by compelling evidence that a new trial would result in an acquittal in the face of Echols' and his codefendants' admissions to their crimes, in part as recounted on direct appeal, see Echols v. State, 326 Ark. 917, 938, 941, 936 S.W.2d 509, 518, 519-20 (1996); Misskelley v. State, 323 Ark. 449, 459-61, 915 S.W.2d 702, 707-08 (1996), even while he might dispute the credibility of those admissions or particular details of them.

In previous pleadings in circuit court, the State relied upon and attached as an exhibit Misskelley's post-conviction statement inculcating the defendants. The Arkansas Supreme Court concluded that under its decision in Echols v. State, 2010 Ark. 417, ___ S.W.3d ___, that statement was part of "all" the evidence to be evaluated on remand. See Misskelley v. State, 2010 Ark. 415, at 7. Thus, the State will again rely on that statement as well as others made by Misskelley at the coming hearing and in any post-hearing briefing. Although the Court has not yet determined how it will receive evidence, the statement is attached as an exhibit to this response by way of example. See Respondent's Ex. "A."

Respectfully submitted,

SCOTT ELLINGTON
Prosecuting Attorney

DUSTIN McDANIEL
Attorney General

DAVID R. RAUPP
Senior Assistant Attorney General

BY: _____

ATTORNEYS FOR RESPONDENT

CERTIFICATE OF SERVICE

I, David R. Raupp, Senior Assistant Attorney General, do hereby certify that I have served a copy of the foregoing pleading, by mailing a copy of same, by U.S. Mail, postage prepaid, to counsel for petitioner this 8th day of April, 2011, as follows:

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DAVID R. RAUPP

DEPOSITION
OF
JESSIE LLOYD MISSKELLEY

*Taken in the office of C. Joseph Calvin
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APPEARANCES:

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JESSIE LLOYD MISSKELLEY
DEFENDANT

DEFENDANT'S
EXHIBIT

Proffer 10
2-22-94



J-Joe Calvin
B-Brent Davis
M-Jessie Misskelley
D-Daniel Stidham
G-Greg Crow

J- Okay I have the recorder on.

B- I have turned the other recorder on for purposes of this tape we are at the office of Joe Calvin, attorney, it is 8:02 p.m. on February 17, 1994, present in the room is Greg Crow.

G-Present

B-Jessie Misskelley, Jr.

M-Present

B-Dan Stidham

D-I am here

B-Joe Calvin

J-Present

B-and myself, Brent Davis, now Jessie before we start would you raise your right hand, do you swear to tell the truth the whole truth and nothing but the truth so help you god.

M-Yes sir I do

B-Now for purposes of the records I want it to reflect that number one that Mr. Stidham and myself have talked with Judge Burnett and have advised him of the proceedings and after discussing this with him, he approved or said that we could take a statement with Mr. Misskelley's attorneys present.

D-Over my objections

B-Over Mr. Stidhams objections. Also, for Mr. Misskelley's benefits that this statement will be taken with a grant of use immunity approved by the court which means that anything in this statement can not be used in any proceedings against Jessie Misskelley Jr., in the future, down the road or whatever. Also, for the record, and Mr. Stidham can add to this, it is my understanding that any statement that Mr. Misskelley gives will be against the advice of his attorneys, Mr. Stidham and Mr. Crow.

D-That is correct

B-and for the record that they are requesting, they have requested of the judge that it be delayed until the psychiatric evaluation could be performed and that the court indicated that this statement could be taken before that evaluation over the objection of Mr. Stidham.

D-That is correct

B-and that this statement will be tape recorded and a copy of that tape or that tape will be provided to the defense counsel and that at this point no promises have been made as to any deals or any benefits that will be granted to Mr. Misskelley as a result of his statement.

D-There have been no negotiations whatsoever primarily do to Mr. Misskelley's refusal to talk to us.

B-Now if you would, would you please state your name, Jessie.

D-Before you get started with that, I would like to make a record to what I have or have not advised Mr. Misskelley of tonight.

B-You may need to speak up.

D-Okak, Jessie can you hear me?

M-Yes I can hear you.

D-Now I want you to listen very carefully to what I have to tell you, okay. I told you earlier that I had some new evidence is that correct.

M-That is what you said.

D-And I told you that this new evidence may, I plain on filing a motion for a new trial and that court will grant you a new trial based on this new evidence, is that correct.

M-That is what you said.

D-I also told you that you given a statement would be against my advice and wishes.

M-That is what you said.

D-I am advising you that I don't think it is a good idea for you to give this statement, do you understand that.

M-Yes I do.

D-Okay, do you understand that Mr. Crow has given you the same advice.

M-Yes I do.

D-You need to speak up a little louder, Jessie.

M-Yes I do.

G-One second let me fix this.

D-So you understand that it is my advice to you, is that you not say anything, do you understand that.

M-Yes

D-And you are eighteen (18) years old and you understand that I have asked for a mental evaluation.

M-I do not know if you did or not.

D-I asked the court if I could get the opportunity to get you the psychiatric help that you asked for when I was down at Pine Bluff, Tuesday. Do you remember asking for that?

M-Yes I do

D-You asked my to get you a psychiatrist.

M-Yes, I said that I need help.

D-Okay and that is why I asked the judge for the opportunity to get you the evaluation before you made any statement. Do you understand that?

M-Yes

D-And do you also understand that again that it is my advice that you not talk or give any statement here tonight until we have a chance to file a motion for a new trial and get you some psychiatric evaluation completed. Do you understand that?

M-Yes I do.

D-And it is your decision to go ahead and make a statement any ways.

M-Yes

D-So you still want to give a statement against my advice and counsel.

M-Yes because I want something done about it.

D-Okay, is there any part of what I just told you that you do not understand.

M-No

D-Do you understand everything?

M-Yea

D-And you want to make this statement regardless of my advice against doing so.

M-Yea

D-Do you want to have the opportunity to talk to anyone else, your father or anyone else before you make this statement.

M-I may need to talk to my father but I am not sure.

D-It is your decision, you are eighteen (18) years old.

M-Yes I am

D-Do you want to talk to your father or not?

M-No, I can go ahead and do it.

D-Do you realize that once you make this statement there is no turning back.

M-I know there is no turning back.

D-Is there anything that your would like to add to that, Greg?

G-Jessie, do you realize that I do not always agree with everything that Dan says but this time agree, I do not think you should say anything. You now that you are aware of the fact that I am telling you that you should not say anything?

M-Yes I understand what you are saying.

G-I want you to understand that and you are going to anyway, is that right.

M-Right, because I want something done.

J-Let me ask a couple of questions before you get into it. Jessie when you were brought here, since you have been here with the Deputy Sheriff, I think that you got here about 5:00, is that correct.

M-Somewhere

J-Okay nobody has questioned you about anything that has happened is that correct.

M-No

J-How have we treated you?

M-Nice

J-Has anybody been rude to you or anything?

M-No

J-We got you a cheeseburger sandwich and I asked Mr. Crow on the telephone if that would be alright, he said that would be perfectly alright, and we purchased you a cheeseburger, is that correct.

M-Yes sir

J-And I gave you a couple of diet cokes, I do not now if you drank them all but you drank those, is that correct.

M-Yes

J-But you have not been promised anything before your testimony and you want to give it free and voluntary and nobody has mistreated you.

M-No

B-Would you please state your name Jessie?

M-Jessie Lloyd Misskelly, Jr.

B-And Jessie how old are you?

M-Eighteen (18)

B-And what is your birthdate?

M-July 10, 1975

B-Okay and where were you residing prior to the time that you were arrested?

M-Holland Trailer Park

B-Okay, I want to draw your attention back to the date that the three little boys were murdered, if you would on that day did you go to Robin Hood Woods?

M-Yes sir I did.

B-Okay and who did you go there with?

M-Damien and Jason.

B-Okay, and when you went there what happened when you got to the woods?

M-We sit there for awhile and then three little boys came up.

B-What, did you have anything to drink or had you done any drugs or anything like that prior to that time or during that time?

M-I was drinking

B-What were you drinking?

M-Whiskey, Evan Williams

B-Okay and do you recall whether it was day light or dark when you got to the woods?

M-It was still day light

B-Okay and do you know or have any idea what time it was about when you got to the woods?

M-No, I don't.

B-Okay, now, where did you enter the woods from?

M-By a bridge.

B-Okay and what kind of bridge was it

M-On a service road.

B-Okay, you entered the woods by a bridge near the service road.

M-Yes,

B-Okay, who was with you at that point.

M-Jason and Damien

B-Where did you get with them?

M-Lake Shore,

B-Okay and was there anybody else with you.

M-No.

B-And when you entered the woods near that bridge what happened next.

M-We just sit out there started drinking and all of a sudden we heard some noise me and Jason hid and Damien sat there and he hid and three little boys came up and he jumped them.

B-Now when you say that prior to the boys coming up what was Damien doing?

M-He was just sitting there waiting for them.

B-Was he drinking too?

M-Yes

B-What was he drinking?

M-He was drinking beer.

B-Okay and what about Jason?

M-Same thing.

B-Okay, did they appear to be intoxicated?

M-To me they were

B-Okay what about you had you drank to the point that you were intoxicated?

M-I drunk to the point that I was sick.

B-Okay and what were you drinking with the Whiskey?

M-No

B-Okay and what brand was it?

M-Evan Williams

B-Okay, where did you get it from?

M-Vicky Hutchinson

B-Was there anybody with you when you got that?

M-No

B-Okay, did, were you the only one there when you got the Evan Williams from her?

M-Yea

B-Okay and how much, when did you make the arrangements for her to get that?

M-During that day, I do not know what time.

B-Now, where had you been right before hooking up or getting with Damien and Jason?

M-Well, that morning I went to West Memphis roofing.

B-Okay, and about what time did you get through roofing?

M-Well, I got off about dinner time.

B-Okay and after you got off at dinner time where, what were you doing right before you meet up with Jason and Damien, where had you been?

M-Holland Trailer Park

B-Okay, and had you seen anybody at Holland Trailer Park right before you left to meet up with those two?

M-Yes

B-and who had you seen.

M-Louis, Susie, Stephenie, Pat, Bubba, Cody, Stephenie, Bobby, no, some cop and there was some more people out there, too.

B-Okay so and so it was after was it, do you have any idea it was when you left the trailer park approximately?

M-I do not know what time it was I did not have my watch.

B-and where were you when as far as between the trailer park and Robin Hood Woods when you ran into or came across Jason and Damien.

M-Lake Shore.

B-Is that where you meet them?

M-Yes,

B-Where were they when you meet them?

M-By the interstate.

B-Okay did you know ahead of time that you were going to meet them there.

M-Yes

B-Okay and how did you know that?

M-Well, Damien, I talked to him a couple of times and he wanted me to go to West Memphis with him and Jason to find some girls and I went.

B-Did you know what you where going for what was going to happen?

M-No I didn't,

B-Okay, now how did get to Lake Shore to the Woods, what route did you take?

M-We walked by Wal-Mart and on the service road.

B-Okay do you remember Damien was wearing?

M-I can not remember to this day.

J-Jessie you need to speak up just a little bit!

M-I can not remember to this day.

B-Okay, do you remember what Jason was wearing?

M-No I don't, I can remember what I was wearing.

B-What was you wearing?

M-I was wearing a white shirt, that had a basketball, something on the front of it and I had blue jeans, that were greasy and white

and blue addidas (sp).

B-Okay now when you, after you got in the woods do you have any idea how long you were in the woods before the kids came up.

M-Not very long.

B-Okay, now, where were you in relation to the creek that runs through the woods. Are you, do you know what I am talking about when I say that there is a creek running through it?

M-Yea because it goes up under the bridge.

B-Okay the creek that runs under the

M-Bridge

B-Service Road okay, were ya'll in the creek, out of the creek,

M-Out of the creek

B-Okay, were all three of you out of the creek?

M-Yea

B-Okay and were you on the Blue Beacon side or the Memphis side of the creek.

B-Let me ask that again. The creek that runs under the service road and into Robin Hood Woods.

M-Right

B-Okay one side of it is the Blue Beacon side and one side of it is closer to Memphis one sides where ya'll on the Blue Beacon side or on the Memphis of that creek?

M-Blue Beacon

B-Okay and which way, where did the boys come from or do you know?

M-I don't know

B-When did you first know that they were in the woods?

M-All I know is that I heard some kids holler.

B-Okay and what happened at that point?

M-Nothing, Damien started making some noises to get there

attention and they came over to where we was at.

B-When you say that you made noises to get their attention what did he do?

M-Holler a little bit

B-Okay and when they came over what happened?

M-and Ja..., Damien jumped on them and the other two started beating on Damien and me and Jason jumped on them.

B-Do you know which one Damien jumped on?

M-One of them had blonde hair, I do not know which one.

B-Okay, which one were, which two was it that jumped on Damien when he jumped on the other one?

M-I can't I can't remember that.

B-What happened at that point when Ja..., Damien jumped on one and the other two jump on him?

M-Me and Jason grabbed them.

B-Okay, who did you grab?

M-The one that had a blue boy scout

B-Who did Jason grab or what did that boy look like that Jason grabbed?

M-I can not remember, I remember the one I grabbed.

B-Okay and what was that boy wearing?

M-I can't remember!

B-Okay you said

M-I was too messed up to remember that

B-Okay, you said something about a blue or about a boy scout something. Was one of them wearing a uniform?

M-Something with Boy Scout on it.

B-Okay, now when you grabbed one and Jason grabbed one what happened next?

M-We started hitting them.

B-With what?

M-Fist first

B-Where describe to me Ja...., what you saw Jason do.

M-He got, first he cut one of them on the face on his left side just a little bit like a scratch and then they went to the other one and got on top of him starting hitting him and pulled his, one of them pants down and got on top of him and cut him.

B-Okay, now you said that he first hit somebody, one of them and cut him on the left side of his face, Okay, was that a different person then the one he jumped on and cut with the knife.

M-To my knowledge, yea, it was a different person.

B-What were you doing during this time?

M-I was still hitting that one.

B-What were you hitting him with?

M-My fist

B-Do you know how many times you might have hit him?

M-a bunch

B-What part of his body were you hitting him in?

M-Face

B-Okay

M-Head

B-What was Damien doing during this time?

M-Well, the one that got cut on his face, he stuck his finger on his cheek and licked the blood off of it.

B-That is what you saw Damien do. What else was he doing?

M-He grabbed one of them by the ears, I do not know which one, he grabbed one by the ears trying to pull his ears off or something and grabbed them pretty tight till they turned red.

B-Did the, Were the kids, the three little boys, were they saying anything or doing anything during this?

M-They were saying stop, stop!

B-and what about the boy that you were hitting, was he saying that?

M-He was telling me to stop and I stopped and then Damien told me no, no don't stop and I got on it again.

B-Now, did anybody at what point or at this point when you are doing that did they have their clothes on?

M-While we were hitting them.

B-At some point did they get hit with anything besides your fist?

M-Stick

B-Who hit them with the stick?

M-Damien, he hit one of them in the head with a stick.

B-When you say that, do you remember what kind of stick did Damien had, you saw those sticks that we in court?

M-I didn't look at them.

B-Okay

M-I know that it was a stick like somebody had carved something into it or something, you know part of a bark off of it.

B-Did you know how long it was, was it as long as a baseball bat or longer?

M-It was longer than a baseball bat.

B-Describe for me what it looked like as far as you say that it looked like someone carved on it?

M-Like pieces of the bark were missing off it.

B-Was that at the end, middle or botton or do you remember?

M-I can't remember.

B-Okay, now

J-In order to make sure that it picks it up you need to talk up a little!!

M-Oh, I can't remember.

B-Now, when you were hitting, when you say that you were hitting them and Jason and Damien were hitting them were they, were the boys still conscious at that point?

M-Yea

B-At what point did you notice or did you ever see them when they did not appear to be conscious or appeared to be knocked out?

M-No

B-At any point did you, were you there the whole time while this was going on?

M-Yes

B-How far were you from Damien, Damien and Jason?

M-I was pretty good ways from them.

B-Okay, when you say you know, lets see, how

M-About from here to that door over there.

B-The door outside this building.

M-No, the door to the next room over there.

B-Okay so it would have been about say 10 yards or something?

M-Something like that maybe not even that far.

B-Okay could you see what they were doing?

M-I did not pay any attention to them, I just keep on hitting that one.

B-Okay and was that the boy that had the boy scout uniform on?

M-Yea

B-Now, what did Jas, what did you see Jason and Damien do to the other two?

M-Well, Damien was going to screw one of them.

B-When you say he was going to screw him what did you see him do?

M-He was going to stick his penis in that little boys behind but as far as I could see he didn't.

B-When you say he was going to what did you see Damien do and what happened between him and that little boy as far as that goes?

M-I do not understand

B-You said that he was going to screw the little boy or stick his penis in his behind, what did you see Damien do?

M-He did not do it, he was going to it then he didn't.

B-What was it that Damien did that made you think that he was going to do that?

M-Well, I seen the boys pants down.

B-How did his pants get down?

M-He pulled them.

B-Who pulled them?

M-Damien

B-And did the, was the boy running when that happened or was he trying to get away or what was happening?

M-He was kicking his feet.

B-And what else did Damien do besides pull his pants down, the little boys pants down, that made you think that he was going to screw him?

M-What do you mean?

B-What did you see, you said that Damien pulled his pants, the little boys pants down did you see Damien do anything else that indicated that he was going to screw him?

M-No

B-Did Damien have his clothes on or did he at that point?

M-He had his pants unbuttoned.

B-Okay and at that point what was Jason doing at that time.

M-He pulled one of these boys pants down and got on top of him and starting swinging.

B-When you say started swinging what do you mean?

M-He was swinging his arms.

B-Around, can you show me what you mean by that.

M-He was coming like this.

B-Hitting him

M-Yea, like you were swinging a swing blade.

B-Okay was the boy lying face down or face up?

M-Face up

B-And did Jason have anything in his hands at that point?

M-He had a knife.

B-And was he actually hitting him with his knife or his fist?

M-Well, the blade was opened.

B-Could you, see was he cutting the boy?

M-No, it looked like he was swinging the knife at his legs.

B-Could you, did you ever see one of the boys get cut with the knife?

M-After he got through I noticed what he had done.

B-What did you see?

M-I saw the boy that was missing everything.

B-If you would, when you saw that describe to me what you saw Jason do and what you saw happened?

M-Well, when he was doing that I seen blood fly.

B-Where did the blood go?

M-Grass, I mean not grass, weeds, like sticks laying around.

B-What did the boy do when that happened?

M-He started hollering and Jason put a shirt over his mouth.

J-You need to speak up a little!!

M-He put a shirt over his mouth.

B-What did Jason do after that?

M-Then he came over where I was at.

B-What did he do then?

M-He wanted to do that one that I was hitting he wanted to do him the same way and I would not let him?

B-What did you say to him?

M-I told him, I said after I seen what he did to the other boy I said no you are not doing this one like that.

B-What did Jason do then?

M-He looked at me real weird, showed me that knife and he just walked off.

B-Had you seen that knife before?

M-Yes

B-Who's knife was it?

M-Jason

B-And what did it look like?

M-I can't remember he keeps all kinds of knives.

B-Okay

M-I can't remember, all I know is that it was a lock blade.

B-When you say a lock blade do you mean the one that folds out and locks?

M-Yea

B-Okay and were what happened to the boys that did you stay after you seen Jason do that and he comes to you what happened next?

M-Well, Damien was squeezing, Jason went back to that one boy and

starting hitting him some more.

B-When you say the one boy

M-The one that he cut

B-Is that the one that had his penis cut?

M-Yea

B-Castrated

M-Right

B-So Jason goes back to him what is he doing to him when he goes back to him?

M-He just started hitting him in the face

B-What are you doing at that point, when you see him go back, he has castrated him and he is hitting the boy in the face what are you doing?

M-I had done stopped what I was doing.

B-What about the boy that you had been hitting on what is he doing at that point?

M-Nothing, he was unconscious.

B-Were you still holding on to him.

M-Yea

B-How did you have him held?

M-By the hand

B-And you see Jason go back to the other boy, what, describe to me what Damien is doing at this point? Jessie you told me that Jason came over to you and then went back to the boy that had been castrated and starting hitting him in the face. What was Damien doing at this point?

M-He was stilling holding, still messing with that boys ears.

B-You said that you had that the boy had was unconscious and then what happened next what do you rememeber happened next?

M-I let him go after that I let him go and Damien told me don't,

so I keep on holding on to him and then I hit him some more.

B-Was the other two boys still conscious you said the one you had was unconscious were the other two boys conscious at that point?

M-Well, the one that was castrated he was not moving that much no more, I figured that he might have been dead or whatever I really did not know.

B-Now what happened next you said that Damien still had the other one and Jason has one and you have one what happened next?

M-Damien was messing with one of those boys penis.

J-Jessie you need to speak up!!

B-When you say he was messing with one of boys penis what do you mean what was he doing?

M-Pulling on it!!

B-Do you remember which boy that was?

M-No, I do not.

B-Let me ask you this the boy was it the boy with the boy scout uniform on?

M-I can't remember because

B-Okay now, what happens next you said that Damien was pulling on one of the boys penis, what happens next?

M-We tied them up.

B-Now, you said before when the police asked you in their statement and asked what they were tied up with and you said that they were tied up with rope?

M-I made that up

B-Why?

M-Trying to get them off tract!

B-Who tied them up?

M-Damien and Jason

B-Did you help tie them up?

M-No

B-Did you see how they tied them?

M-No, just

B-Where were you when they were tying them up?

M-I was standing there.

B-When you say standing there where were you?

M-Right there beside them.

B-Okay where were they, you told us in the woods where in the woods were they?

M-Close by the _____

B-Okay, and how did, did you see how they were tied up or how did Jason and Damien tie them up?

M-Right hand, right leg, left hand, left leg

B-What did they tie them with?

M-Shoe strings.

B-Where did they get the shoe strings?

M-Out of the boys shoes.

B-Who got the shoe strings out of the shoes?

M-Damien and Jason and I handed it to them, I handed them the shoes.

B-Did you pull the strings out of the shoes?

M-What?

B-Did you

M-In one of them.

B-Okay

M-But the rest I just grabbed and pulled them out.

B-Where Damien and Jason taking the strings out of the shoes too or were you doing that?

M-I was doing that

B-And when you would get the strings out you would hand them to the other two?

M-Yes

B-And did you actually tie any of the knots that was tying any of the boys up?

M-No

B-Were they, did they have there clothes on or did they have there clothes off when they got tied up?

M-They had them off

B-Where they conscious when they were getting tied up?

M-They were not moving no more.

B-Can you tell us were they saying anything or were they?

M-They was not saying nothing and when they threwed them in the water and I don't remember but one of them was moving.

B-When you say moving do you remember which one was moving when they were thrown in the water?

M-No

B-When you say moving what do you mean?

M-Moving around

B-Who throw them in the water?

M-Damien and Jason

B-Were you there when that happened?

M-I was getting ready to leave.

B-Why was you getting ready to leave?

M-Because I was going to wrestling.

B-Was there in other reason you were getting ready to leave?

M-What else Jason did to that one boy I could not do anything else.

B-Did you all leave together?

M-No, I left before them.

B-Which way did you leave how did you get out of the woods?

M-I went up there by the _____ Truck Stop and got on the over pass and went around.

B-When you left woods did you head the interstate or the other direction?

M-Interstate

B-Did you have anything with you when you left the woods.

M-A whiskey bottle

B-Was it empty or did it have any in it?

M-Still had some in it.

B-And you said earlier that you had drank to the point that you were sick. Did you get sick that night?

M-Going home

B-Where?

G-How much to we have on this tape?

B-Okay we have turned one of the tapes over at least one of the tapes over Jessie, you said that you got sick going home that night, you mean sick at your stomach?

M-Yes,

B-Throwing up

M-Drunk until I got sick.

B-Do you remember where you were when you throw up?

M-It was in the grass.

B-Do you remember where it was in relation to the road or the over pass?

M-Over by the over pass.

B-What did you do with your bottle?

M-I busted it.

B-Where at?

M-On the side of a like a over pass.

B-Where a bridge goes over one of the interstates?

M-Yea, like coming from I think it is Little Rock that goes under and there is a bridge goes to Memphis.

B-and that would have been Evan Williams

M-Yea

B-When you left the woods and went back was Damien and Jason still in the woods, when you left?

M-They were still there when I left.

B-What was it as far as day light or dark what was it when you left the woods

M-I would say about dark close to dark it was still light out side a little, not much

B-It was getting dark and what did you do then

M-I went to my house, got my mask and then went to Johnny's and then went to

B-You went wrestling was it dark when you left to go wrestling

M-Yes, we usually leave about 8:00

B-But on that night was it already dark when you got ready to leave

M-Yes, but usually he say he is ready to go and we do not got and we just sit there and sit there and finally we get ready to go

B-Is everything that you told me true

M-Yes sir

B-Is there parts of what happened that night that are hard for you to remember

M-Parts

B-I mean are there things that happened that night that is hard or difficult for you to remember. Are there events that took place that night of things that happened that you that are some what difficult to remember

M-I can't remember

B-Where you there when the three boys were killed

M-Yes I was there

J-I would like to aske a question if I might, When they trough them in the water were any of them screaming or kicking or where they all unconscious or do you know

M-They were not hollering they was, one of them was just moving

J-When you say moving what do you mean

M-He was moving like a worm

J-Was it the one that was castrated or do you remember

M-I can't remember just one of them that all I remember

J-Who through them in the water

M-Damien and Jason

J-Did they push them down

M-Don't know

J-You stood and watched them

M-I seen them put them in the water but I don't know what they did after I left

J-In other words you left before, before they did

M-Right

J-and after it was over did ya'll have a conversation about it

M-No, when I seen Damien and Jason on the 14th they just looked at me and they never said nothing to me

J-So ya'll never had any discussion about it

M-No, I did not want to say nothing to them after what I had seen

J-and the knife that he used was a switch blade knife

M-It was a lock

J-Lock blade the kind that you fold up,

M-Yes, it has a button at the end of it

J-How long was it do you know

M-pretty long I guess

J-Have you seen it since

M-No

J-Do you know who it belongs to

M-Jason

J-Have you seen it before

M-Yes at his house, he has all kinds of knives

D-Jessie this is for the tape this is Dan Stidham, prior to making this statement you refused to talk to Mr. Crow and I is that correct

M-Yes, I do

D-You did not want to talk to us

M-No

D-and again we advised you not to make this statement, is that correct

J-Yes

D-For the publish of this tape I would like to _____ as I did to Judge Burnett earlier that I think that Mr. Misskelly is perjuring himself. Do you have any opinion Mr. Crow

G-I have a very strong opinion that he is perjuring himself

D-We feel obligated to inform the court as officer to the court
that we need to state that for the record of this statement

B-Let me ask one other, Jessie I asked you earlier about what you
told me about the events that took place the night of May 5, is
that what you told me the truth

M-Yes sir

B-and if asked to testify to that in court would you and could you
testify truthfully to those same things

M-Yes sir

B-This will end the statement at 8:45 on February 17, 1994

I, Cindy Buck, secretary for C. Joseph Calvin, state on oath that I
transcribed three (3) tapes of a statement given by Jessie
Misskelly, given on or about 8:00 p.m. February 17, 1994, at the
Law Office of C. Joseph Calvin, to the best of my ability.

Cindy Buck
Cindy Buck

STATE OF ARKANSAS
COUNTY OF CLAY

Subscribed and sworn to before me on this 21st day of
February, 1994.

Sandra Russell
Notary Public

My commission expires: 3/7/2002

Sandra Russell, Notary Public
Clay County, Arkansas
My Commission Expires 3/7/2002

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