

# **EXHIBIT A**

**THIS IS A CAPITAL CASE**

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

|  |   |                                 |
|--|---|---------------------------------|
| <b>DAMIEN WAYNE ECHOLS,</b>                | ) | <b>Case No. 5:04CV00391-WRW</b> |
|  | ) |                                 |
| <b>Petitioner,</b>                         | ) | <b>DECLARATION OF</b>           |
|  | ) | <b>DENNIS P. RIORDAN IN</b>     |
| <b>vs.</b>                                 | ) | <b>SUPPORT OF SECOND</b>        |
|  | ) | <b>AMENDED</b>                  |
|  | ) | <b>PETITION FOR A WRIT</b>      |
| <b>LARRY NORRIS, Director,</b>             | ) | <b><u>OF HABEAS CORPUS</u></b>  |
| <b>Arkansas Department of Corrections,</b> | ) |                                 |
|  | ) |                                 |
| <b>Respondent.</b>                         | ) |                                 |
| _____                                      | ) |                                 |

I, Dennis P. Riordan,, declare under penalty of perjury that:

1. I am counsel for petitioner Damien Echols in this matter.
2. I have viewed the HBO documentary named "Paradise Lost" about the Echols prosecution.
3. During a meeting with the family of the victims prior to the Echols trial recorded as part of the documentary, prosecution Brent Davis stated of Jesse Misskelley: "Unfortunately, we need his testimony real bad." Davis further stated that without Jesse Misskelley, the odds of getting a conviction against Echols and

Baldwin might be “50/50.”

4. At another point in the documentary, Detective Gary Gitchell appears at a press conference following the arrest of the three defendants in June of 1993. After being asked the strength of his case on a scale of ten, Gitchell replies; “Eleven.”

5. I have reviewed a transcript of the statement taken by interrogators from Jesse Misskelley on June 3, 1993. Early in his statement, Misskelley said that the victims were hit before Misskelley left. Later he mentions that Echols and Baldwin were “screwing them and stuff, cutting them and stuff,” so he ran off. Misskelley had made no reference to a knife in his statement prior to being asked by Detective Ridge: “Who had a knife? Misskelley then responded that Baldwin did. Later, after Misskelley had said one boy was cut on the face, Ridge, in an apparent attempt to get information on the Byers’ genital injuries, told Misskelley that another boy was cut and asked where. After Misskelley stated “at the bottom,” Ridge suggested the “groin area,” to which Misskelley made no reply. Finally, Ridge asked Misskelley if he “knows where his penis is,” and Misskelley agreed “that’s he was cut at.” It was Detective Gitchell, not Misskelley, who then supplied the name of Byers for the boy being referred to.

6. Exhibit AAA to this memorandum consists of copies of photographs of lists drawn up by jurors during their deliberations at petitioner’s 1993 trial. These

lists have been maintained by investigating authorities along with other exhibits in the case. These photographs were taken by Ken Moses, an investigator for Jason Baldwin, during an inspection of trial exhibits conducted in the presence of representatives of the prosecution.

7. Echols has offered as exhibits in support of his pleading copies of articles from the Arkansas Democrat-Gazette. These copies were downloaded from internet sites, and on that basis I believe them to be accurate reproductions of the articles themselves.

8. On September 22, 2006, I participated in a video teleconference with Doctor Werner Spitz during which Spitz discussed his preliminary conclusions concerning the issues of forensic pathology in this case. Those conclusions are as described in paragraph five of Section I(B)(1) of the memorandum.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27<sup>th</sup> day of October, 2007, at San Francisco, California

/s/ Dennis P. Riordan  
DENNIS P. RIORDAN

# **EXHIBIT B**

# Study of Wrongful Convictions Raises Questions Beyond DNA

In April, Jerry Miller, an Illinois man who served 24 years for a rape he did not commit, became the 200th American prisoner cleared by DNA evidence. His case, like the 199 others, represented a catastrophic failure of the criminal justice system.

When an airplane crashes, investigators pore over the wreckage to discover what went wrong and to learn from the experience. The justice system has not done anything similar.

But a new study does. Brandon L. Garrett, a law professor at the University of Virginia, has, for the first time, systematically examined the 200 cases, in which innocent people served an average of 12 years in prison. In each case, of course, the evidence used to convict them was at least flawed and often false — yet juries, trial judges and appellate courts failed to notice.

A few types of unreliable trial evidence predictably supported wrongful convictions, Professor Garrett concluded in his study, "Judging Innocence," to be published in *The Columbia Law Review* in January.

The leading cause of the wrongful convictions was erroneous identification by eyewitnesses, which occurred 79 percent of the time. In a quarter of the cases, such testimony was the only direct evidence against the defendant.

Faulty forensic evidence was next, present in 55 percent of the cases. In some of those cases, courts put undue weight on evidence with limited value, as when a defendant's blood type matched evidence from the crime scene. In others, prosecution experts exaggerated, made honest mistakes or committed outright fraud.

Most of the forensic evidence involved problems with the analysis of blood or semen. Forty-two cases featured expert testimony about hair, an area that is, Professor Garrett wrote, "notoriously unreliable."

Informants testified against the defendants in 18 percent of the

*Continued on Page A10*

July 23,  
2007

ADAM LIPTAK

SIDEBAR

# False Conviction Study Raises Questions Beyond DNA

*Continued From Page A1*

cases. (In three cases, it turned out they had an unusually powerful motive for their false testimony, as DNA evidence proved they were in fact guilty of the crime they had pinned on the defendant.)

There were false confessions in 16 percent of the cases, with two-thirds of those involving defendants who were juveniles, mentally retarded or both.

The 200 cases examined in the study are a distinctive subset of criminal cases. More than 90 percent of those exonerated by DNA were convicted of rape, or of both rape and murder, rape being the classic crime in which DNA can categorically prove innocence. For other crimes, there is often no biological evidence or, if there is, it can give only circumstantial hints about guilt or innocence.

Only 14 of those exonerated had been sentenced to death, 13 in rape-murders. There is a widespread misconception that DNA evidence has freed many inmates from death row, but it is actually a rare murder not involving rape in which biological evidence can provide categorical proof

Online: Documents and an archive of Adam Liptak's articles and columns: [nytimes.com/adamliptak](http://nytimes.com/adamliptak)

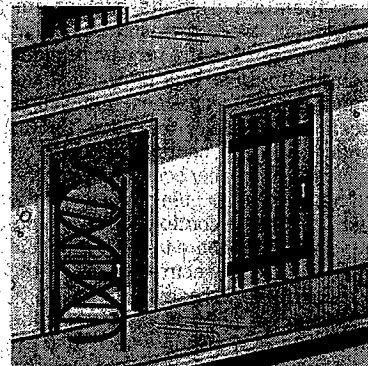
of innocence.

"DNA testing is available in fewer than 10 percent of violent crimes," said Peter Neufeld, a founder of the Innocence Project at Cardozo Law School, which was instrumental in securing many exonerations. "But the same causes of wrongful convictions exist in cases with DNA evidence as in those cases that don't."

Professor Garrett's study strongly suggests, then, that there are thousands of people serving long sentences for crimes they did not commit but who have no hope that DNA can clear them.

In a second forthcoming study of false convictions, this one focused on capital cases, two law professors — Samuel R. Gross of the University of Michigan and Barbara O'Brien of Michigan State — cautioned that "exonerations are highly unrepresentative of wrongful convictions in general."

"The main thing we can safely conclude from exonerations is that there are many other false convictions that we have not discovered," the Michigan study said. "In addition, a couple of strong demographic patterns appear to be reliable: black men accused of raping white women face a greater risk of false conviction than other rape defendants; and young suspects, those under 18, are at greater risk of false confession than other suspects." Professor Garrett also found that exonerated con-



Harry Campbell

## Despite proven failures, the system stays the course.

victs were more apt to be members of minority groups than was the prison population generally. For instance, 73 percent of the convicts cleared of rape charges were black or Hispanic, compared with 37 percent of all rape convicts.

The courts performed miserably in ferreting out the innocent. Thirty-one of the 200 exonerated prisoners, for instance, had appealed to the United States Supreme Court, but the justices refused to hear 30 of the

cases. In the one case they did hear, they ruled against the inmate. Of course, appeals courts do not typically reconsider a jury's factual findings, focusing instead on asserted procedural errors. Only 20 of the 200 even appealed on the ground that they were innocent; none of those claims were granted.

Perhaps the most troubling finding in Professor Garrett's study was how reluctant the criminal justice system was to allow DNA testing in the first place. Prosecutors often opposed it, and 16 courts initially denied requests for testing.

Yet DNA evidence can do more than free the innocent. In many cases, it also identified the person who actually committed the crime.

In 40 percent of the cases handled by the Innocence Project, Mr. Neufeld said, DNA not only exonerated the innocent prisoner but also provided evidence that helped identify the person who committed the crime. "In every single one of those cases that perpetrator had committed violent crimes in the intervening years," he said.

The era of DNA exonerations should be a finite one. These days, DNA testing is common on the front end of prosecutions, meaning that in a few years, the window that the 200 exonerations has opened on the justice system will close. We should look carefully through that window while we can.

# **EXHIBIT C**

From Arkansas Democrat-Gazette

## WITNESS FOLLOWED TRAIL TO CULTS 'INVESTI ...

Date: 01/29/94  
Category: NEWS  
Page: 1A

GLEN CHASE, Democrat-Gazette State Reporter  
Image: Photo by Rick McFarland, Arkansas Democrat-Gazette  
TELLS OF CULT RITUAL -- Victoria Hutcheson (right) sits next to Diana Moore during a recess Friday in the capital murder trial of Jessie Lloyd Misskelley Jr. Hutcheson testified that she attended a satanic cult ritual with Misskelley and co-defendant Damien Echols. Moore is the mother of Michael Moore, one of three 8-year-old boys killed in May 1993 in West Memphis.

### AT A GLANCE

Previous highlights in the capital murder trial of Jessie Lloyd Misskelley Jr.:

Jan. 18: Start of Misskelley's trial on three counts of capital murder is delayed a day because of snow and ice in Corning (Clay County).

Jan. 19: Jury selection begins; four jurors selected.

Jan. 20: Attorneys complete jury selection, picking seven women and five men from a pool of about 300 people.

Jan. 26: Trial resumes with opening arguments and testimony from 10 witnesses.

Prosecutor acknowledges Misskelley may be only an accomplice in the slayings, but adds that he is as guilty as the killers.

Defense attorneys claim police coerced Misskelley's statement that placed him at the crime scene, and that Misskelley can prove he was 40 miles away when codefendants killed the boys.

Jan. 27: Testimony continues with prosecutors calling six witnesses.

Prosecutors play Misskelley's taped police statement, in which he admits his and his codefendants' satanic cult involvement. He describes their stalking and capture of the three West Memphis boys, and the sexual assaults, mutilations and beatings of the children. He also said he saw one boy strangled.

Victims' parents become upset and leave courtroom during graphic testimony about the boys' deaths.

Pamela Hobbs, mother of Steve Branch, tells reporter: "It needs to be shown and aired to let people know what goes on in this kind of ritual. Satan worshipers is what they call themselves."

Defense attorneys point out flaws in Misskelley's statement, including that medical examiners found no semen or tissue damage normally associated with child rape; police could not identify any other "cult" members; officials determined the codefendants killed

the boys at least seven hours later than stated; and that codefendants used shoelaces and not ropes to bind the boys.

## WITNESS FOLLOWED TRAIL TO CULTS 'INVESTIGATED' ACTIVITIES OF 3 CHARGED IN SLAYINGS CORNING --

A woman whose children played with three 8-year-old homicide victims testified that she "investigated" cult activities in West Memphis but never suspected cult member Jessie Lloyd Misskelley Jr. could have played a role in the slayings.

Victoria Hutcheson of Marion (Crittenden County), who last April moved to Highland trailer park where Misskelley lived, said Friday that her efforts led her to meet co-defendant Damien Echols and attend a



From Arkansas Democrat-Gazette

cult meeting a few weeks after the May 5 slayings.

"I thought I would play detective," Hutcheson testified. "I had heard a lot of things about Damien Echols."

Misskelley, 18, of Marion; Echols, 19, of West Memphis; and Charles Jason Baldwin, 16, of Marion, are charged with three counts each of capital murder in the deaths of Christopher Byers, Michael Moore and Steven Branch, all of West Memphis.

Investigators have tied the slayings to cult activities by Misskelley and his co-defendants.

Officers found the boys' naked bodies May 6, 1993, in the Ten Mile Bayou drainage channel near Interstate 40.

Misskelley's trial at the Clay County Courthouse entered its third day of testimony Friday and is expected to continue through next week. Echols and Baldwin are scheduled to be tried Feb. 22 in Jonesboro.

Defense attorney Daniel T. Stidham said he expects to begin defense arguments after the prosecution wraps up Monday morning. Stidham told Circuit Judge David Burnett of Osceola (Mississippi County) that he needs four days to present witnesses and evidence.

Much of the testimony revolves around a confession Misskelley gave police June 3 before his arrest.

While some details were wrong, the statement implicates Echols and Baldwin in the second-graders' deaths.

Although police detective Bryn Ridge testified Thursday that he could identify no other cult members, Hutcheson told the court that she went to a cult meeting attended by 10 to 15 people, including Echols and Misskelley.

Hutcheson, who wore a red ribbon and angel lapel pin similar to those worn by the victims' mothers, testified that she used a borrowed library card to take out books on witchcraft and the occult to convince Echols of her interest.

She said she eventually won an invitation to an "esbat," or cult meeting, and left with Echols while Misskelley stayed.

"Jessie and I, I thought we were very close, good friends. So he did spend a lot of time with us,"

Hutcheson said. She said Misskelley stayed at her home the night before his arrest "to protect me from prowlers."

Defense attorneys Stidham and Gregory Crowe, both of Paragould, lost an attempt to prevent testimony about a photograph of Christopher Byers reportedly taken a few weeks before the slayings as he stood in his carport.

Byers' mother, Melissa, testified that Christopher said a man dressed in black took his picture, frightening him, while she and her husband, Mark, had gone to a corner store.

Misskelley's confession said the cult had a briefcase containing drugs, a gun and a photograph of one of the boys. He also said the group had stalked the victims.

"When we pulled up into the carport, Christopher came running out and said, 'A man was here and he took a picture of me,'" Melissa Byers testified. She said her son described a man wearing black shoes, pants, shirt and coat.

Echols had developed a reputation for wearing black.

Early in the day Friday, West Memphis police inspector Gary Gitchell defended tactics he and Ridge used to encourage Misskelley to talk.

Defense attorneys view the confession as coerced.

Investigators showed Misskelley a photo of one victim and played a tape of a young child saying, "Nobody knows what happened but me."

In his confession, Misskelley erred on some details, but said his co-defendants beat the boys, cut them with knives and sexually mutilated at least one of the boys. A state medical examiner testified Thursday that someone mutilated Christopher Byers' genitals.

Misskelley originally said the victims skipped school and that Echols and Baldwin killed them around

From Arkansas Democrat-Gazette

noon. He also said they bound the boys with brown rope.

However, others testified that the boys attended school, that they died after 7 p.m., and had their hands and feet bound by shoelaces.

"Jesse simply got confused," Gitchell told Stidham during cross-examination. "It's quite common to take confessions with details that are wrong."

Gitchell told deputy prosecutor John Fogleman that only Misskelley knew the specific injuries out of "at least 100" of the people interviewed.

Hutcheson said her 8-year-old son, Aaron, spoke the words used in the tape recording that police used to encourage Misskelley to speak about the crime.

During afternoon testimony, Arkansas Crime Laboratory forensics experts said they found no fibers or fingerprints on evidence that connected Misskelley to the victims.

Lisa Sakevicius, a state trace evidence expert, said she matched fibers found on the shoelaces with shirts seized from Echols' and Baldwin's homes.

Sakevicius also testified that Misskelley's hair did not match samples taken from the bodies.

State serologist Kermit Channel testified that officials found no semen on pants seized from Baldwin and Echols, but that they did have questionable stains. Officials sent strips from the pants to Genetic Designs of Greensboro, N.C., for further testing.

Michael DeGuglielmo, director of forensic analysis for Genetic Design, said tests on tissue samples taken from the shoelaces could not be matched with any defendant. DeGuglielmo said tests did confirm the presence of DNA, but examiners did not have enough material to match it with any defendant.

Fogleman won permission from Burnett to introduce as evidence a book seized from Echols' home June 3 entitled "Never on a Broomstick." The book is about witchcraft, which it described as a "secret religion."

Writer Frank R. Donovan covers the history, rites and ceremonies of witchcraft.

Friday's session adjourned shortly before 3 p.m. Fogleman said the day's testimony went faster than expected.

*Edited by: AL at: 2/1/02 5:09:46 pm*

# **EXHIBIT D**

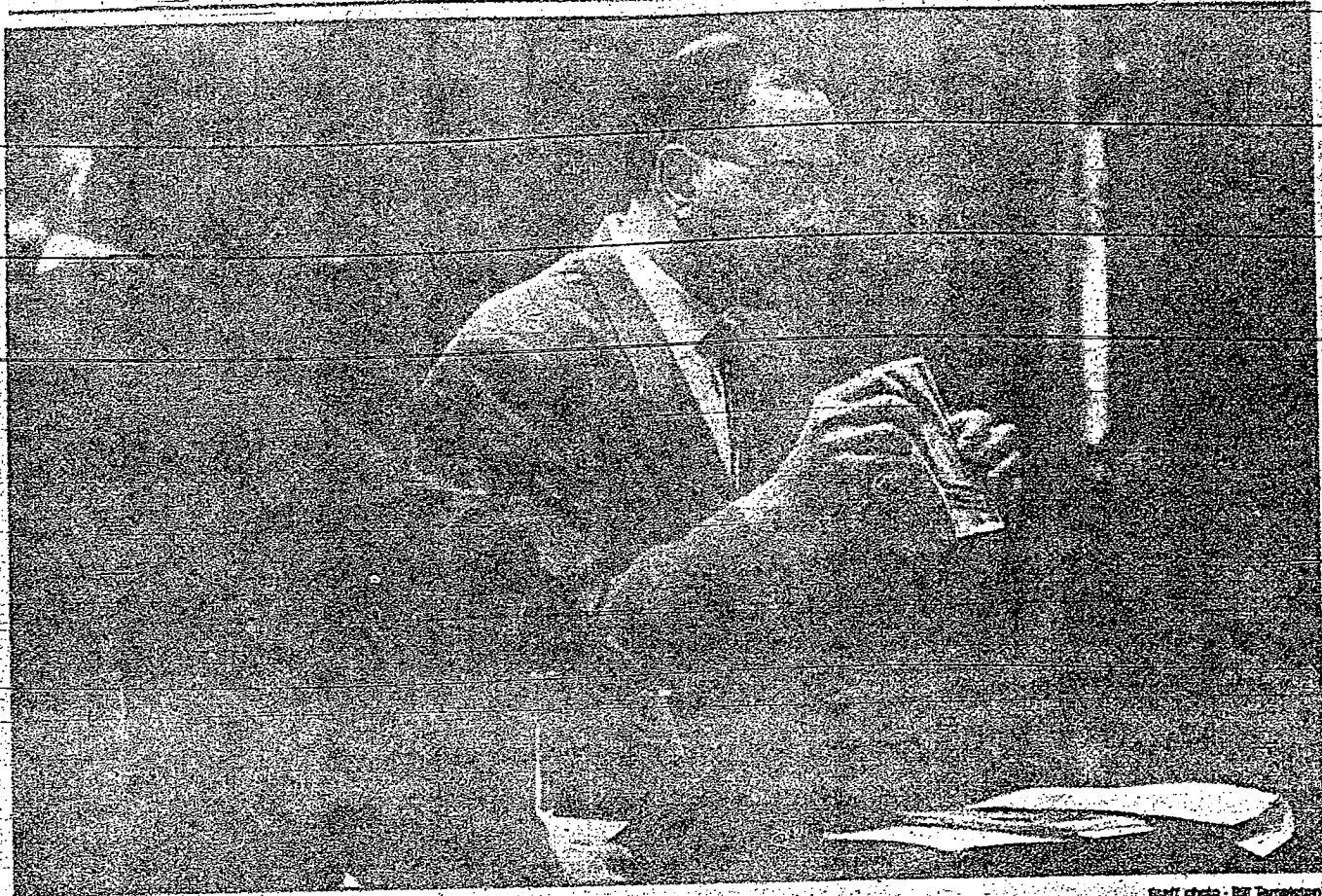
# The Jonesboro Sun

NO. 58

35 CENTS

FRIDAY, JANUARY 28, 1994

32 PAGES



Staff photo - Bill Tarrapleton

### PHOTOGRAPHIC EVIDENCE

Arkansas State Crime Lab medical examiner, Dr. Frank Peretti shows the jury photos of the head injuries one of the youths in the West Memphis murders sustained. Graphic photographic evidence was introduced to the jury to explain the injuries. Man at left is prosecutor Brent Davis. (AP)

## Misskelley caught boy

By STAN MITCHELL  
Sun Staff

### Confession played in court

One of the three West Memphis boys murdered May 5 nearly got away, but Jessie Lloyd Misskelley Jr. told police he chased the youngster down and brought him back, it was revealed in court proceedings Thursday. Jurors in the capital murder case were played the 45-minute tape-recorded confession that Misskelley gave to West Memphis police on June 3. Misskelley, 18; Damien Echols, 19; and Jason Bald-

win, 16, are each charged with three counts of capital murder in the brutal slayings of eight-year-old Steven Branch, Michael Moore and Christopher Byers. Echols and Baldwin will be tried together Feb. 22 at the E.C. "Took" Gathings U.S. Courthouse in Jonesboro. In the confession, Misskelley told West Memphis Police Inspector Gary Gitchell that the Moore child escaped while Byers and Branch were being beaten by Echols and

Baldwin. "Damien hit Chris Byers with his fist and Jason ran around and hit Steve Branch," Misskelley said on the tape. "The other one (Moore) took off running, and I chased him and caught him and brought him back." While Baldwin was "cutting" the Byers child, Misskelley said he "took off" and returned to his home in Marion. Later that night, Misskelley said Baldwin phoned him at his home, asking why he had

left Robin Hood Hill so soon. "I told him I couldn't stand there and watch that anymore," Misskelley told police. "I just couldn't stand to see what they were doing to them." During the phone call, Misskelley said he heard Echols in the background shouting. "Damien was yelling, 'We done it! We done it! What are we going to do if someone saw us? What are we going to do?'" Misskelley said. When the confession tape began, Misskelley was heard

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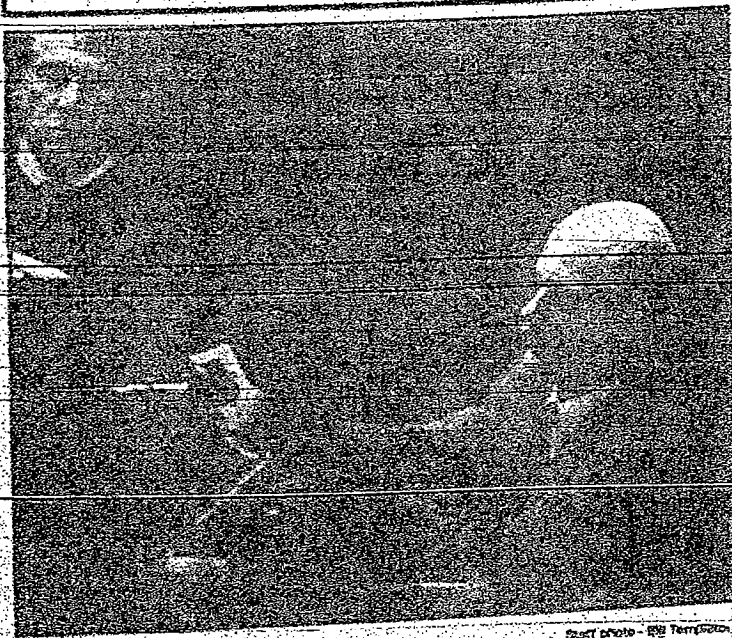
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Court photo - Bill Thompson

**CONFESSION PLAYED**  
 Inspector Gary Gitchell of the West Memphis Police Department on Thursday plays a tape of the confession of Jessie Lloyd Misskelley Jr. about the gruesome murders of three West Memphis boys. Looking on is Judge David Burnett. (AP)

**Misskelley—**

telling police that he, Echols and Baldwin walked from their homes in Marion to Robin Hood Hill near West Memphis.

"When the boys came up, Damien hit the one boy (Byers) real hard, then started screwing him and stuff," Misskelley said on the tape. "Damien and Jason took their clothes off right after they beat them up real bad. They beat them until they couldn't move."

Misskelley said "Damien raped Byers by himself and Jason and Damien raped Branch. They took turns."

The Byers child was pleading for Echols and Baldwin to stop, saying: "Don't! Don't!," Misskelley said.

The three boys rode their bikes to the wooded area about 5 or 6 in the evening, Misskelley added.

Parents of the victims testified Wednesday that they searched for the boys throughout the night on the day of their murder.

The boys' bikes were found the next day in 10 Mile Bayou near where their bodies were discovered.

Misskelley said Echols and Baldwin placed the boys' mutilated bodies in the water-filled ditch.

When the boys arrived at Robin Hood Hill, Misskelley said, Echols yelled at them, telling them to come into the woods.

"He had been watching them for a long time," Misskelley said. "At one (cult) meeting (in Turrell) he had pictures of the boys. It was just one picture and they were all in it. It was a group picture."

During the attacks, Misskelley said he saw Baldwin first cut Branch, then Byers.

"I saw him cut the little boy (Branch) in the face," Misskelley said. "The Byers boy, that's the one I saw him cut down there. He (Byers) was on his back, and I saw him bleed, and that's when I took off."

Baldwin used a six-inch knife with a "fold-up" blade in the attacks, Misskelley said.

Last month, West Memphis police recovered a six-inch knife at a pond near Lake Shore trailer park where Echols lived, but have declined to say if the knife was a murder weapon.

Also on the tape, Misskelley is heard describing a cult that he, Baldwin and Echols belonged to.

Misskelley said cult members would go into the woods, where they would kill dogs and make newcomers eat parts of the dead animals,

"The new members had to eat the meat off the dog's legs," Misskelley said. "If they can't handle it, they don't get in."

Asked what should happen to Echols and Baldwin, Misskelley told police: "I think they need to be put away for a while."

Defense Attorney Dan Stidham "reserved" his right to cross-examine Gitchell about the taped confession until this morning.

Earlier in the day, Dr. Frank Peretti, a medical examiner for the state Crime Lab, testified to the extent of injuries to the youngsters.

Peretti said while he could not rule out that the three boys had been raped in the brutal attacks, there was no physical evidence that pointed in that direction.

Peretti said he did not find any traces of semen during the autopsies on the boys' bodies.

"All that means is that there was no ejaculation," Peretti said.

"There were bruises inside two boys' mouth. Those injuries are normally seen in children who are forced to perform oral sex."

At that point, the victims' families left the courtroom, some of them in tears.

When asked by Stidham if an eyewitness to the crime had reported that the boys had been raped, then would he expect to find injuries, Peretti said he would.

"If it were forceable, I would expect to find injuries," Peretti said. "If the penis enters the anal canal, I would expect to find bruises and abrasions to the opening. I couldn't find any physical evidence of that."

For more than three hours Thursday, Peretti described in detail autopsy photographs taken of the youngsters.

The injuries to the Moore child, Peretti said, included abrasions to the head, neck, abdominal area and internal injuries.

Injuries to the Byers child included abrasions to the head, neck, legs and arms.

Peretti said the children were "hog-tied" with shoe strings, with the left wrist being bound to the left ankle, and the right wrist to the right ankle.

Peretti added that Byers had been sexually mutilated in the attacks.

"The whole genital area was missing," he said. "There was irregular cutting, meaning that the knife

or piece of glass was twisting while the victim was moving."

Peretti said injuries inside the Byers child's mouth are "usually associated with a child that has been forced to have oral sex."

Peretti also testified that it appeared that "three separate weapons" were used in Byers' murder.

Unlike the Branch and Moore child, Byers showed no signs that his death was due to drowning, Peretti said.

Deputy Prosecuting Attorney John Fogleman told jurors Wednesday that Byers bled to death.

Tabatha Hollingsworth of Marion testified Thursday that she saw Echols and his girlfriend, Domini Teer, walking near the murder scene on the night of the boys' murder.

She said Echols was wearing black pants and a black shirt, while Teer was wearing a black shirt and black pants, with flowers on them.

"They were both kind of muddy," she said.

The state is seeking the death penalty in the case. Circuit Judge David Burnett is presiding.

Testimony in the case will continue this morning at 9:30 in the Clay County Courthouse in Corning.

**New—**

specifying that those who fail to meet the conditions of the agreement will lose their pick up rights to the city's services, Hannah said.

"In other words, we take it back if they don't comply," Lowes said.

In other business Thursday, the committee voted to appropriate \$30,000 from its reserve fund for its half of the construction cost of a wash building for city vehicles.

The project was also ordered rebid following the submission of three bids, all of which were higher than \$55,000.

Lowes said was unsure of what caused bids to be higher than expected, but that each of the three were within 10 percent of one another.

**MONARCHY ABOLISHED**

Greek Premier George Papadopoulos abolished the monarchy in 1973.

SPECIAL PURC

# **EXHIBIT E**

# The Jonesboro Sun

NO. 63 35 CENTS FRIDAY, FEBRUARY 4, 1994 28 PAGES JONESBORO, ARKANSAS

## Clinton lifts Viet trade embargo

WASHINGTON (AP) — President Clinton made a controversial gesture of reconciliation toward Vietnam on Thursday, lifting the 19-year U.S. trade embargo against a nation whose divisive war left a legacy of suspicion over the fate of missing American soldiers and airmen.

The move opens an important emerging market for American goods in Southeast Asia and was greeted with enthusiasm by U.S. business interests already setting up operations in the former enemy capital of Hanoi.

Clinton made his announcement after describing his thinking in several private meetings with veterans groups and anxious family members of the missing servicemen. Reaction from those groups was largely negative.

Clinton said he was convinced the step would further efforts to get a full accounting of the missing Americans, and that his decision was not based on enabling U.S. business to make profits there.

Sen Republican leader Robert Dole of Kansas said, "While many of my colleagues think lifting the trade embargo on Vietnam is the right course, I believe it is the wrong decision at the wrong time for the wrong reasons."

SEE CLINTON-2A

## Misskelley jury still deliberating

Burnett tells panel to resume at 9:30

By STAN MITCHELL  
Sun Staff

A seven-woman, five-man jury deliberated until early this morning in an attempt to decide whether or not Jessie Lloyd Misskelley Jr. is guilty of capital murder in the deaths of three West Memphis boys.

TCI technician is hurt in accident

Bobby Daniels of Tulsa Okla., an employee of TCI Cablevision, which was doing video feed of the Jessie Misskelley Jr. trial in Corning for Memphis television station WHBQ, received a high voltage shock while operating technical equipment on a truck outside of the Clay County Courthouse late Thursday, a reporter on the scene said.



Second Judicial District Prosecuting Attorney Brent Davis of Jonesboro holds up a photograph of victim Michael Moore as he hammers home a point in his closing arguments in the Jessie Misskelley Jr. trial in Corning Thursday. Davis noted that it was Misskelley who caught Moore, after the child had escaped his captors on the day he and two other West Memphis youths were killed, and brought Moore back. Seated is Dan Sldham of Paragould, Misskelley's defense attorney, and at right is Misskelley himself.

SEE TCI-14A

Circuit Judge David Burnett recessed the deliberations at 12:10, telling jurors to return at 9:30 this morning.

Misskelley, 18, is charged with the May 5 capital murders of eight-year-old Steven Branch, Christopher Byers and Michael Moore.

Misskelley did not take the witness stand before the defense rested Thursday morning.

After more than 6 1/2 hours of deliberations, jurors asked at 10:55 Thursday night to return to the courtroom to listen to the tape-recorded testimony of Tabatha Hollingsworth, 17, of Marion.

her dad, brother and sister were driving on Interstate 40 when she saw Echols and Teer.

Both Echols and Teer were wearing black pants and black shirts, the girl said.

"Asked about the conditions of the pants, Hollingsworth said, they 'were kind of muddy.'"

She added Teer's pants had "holes in them at the knees."

In his closing argument, Deputy Prosecuting Attorney John Fogleman maintained that Hollingsworth could have been mistaken, and Echols was accompanied by Jason Baldwin, 16, a third defendant.

Fogleman said both Teer and Baldwin had a "slim" build and long reddish hair.

Echols and Baldwin will be tried

together Feb. 22 in Jonesboro.

The second-graders' bodies were found May 6, bound hand and foot, in a water-filled ditch in Robin Hood Hill, a wooded area near their West Memphis homes.

Shortly after jurors began their deliberations Thursday, the defense asked for a mistrial in the case, stating that Prosecuting Attorney Brent Davis had pre-

judged the jury by making reference to Misskelley not testifying in his trial.

Burnett ruled that Davis did not mention that Misskelley chose not to testify, and denied the mistrial motion.

In his closing argument, Davis hammered away repeatedly that

SEE MISSKELLEY-14A

## Well-known physician Joe Verser is dead at 81

Dr. Joe Verser, 81, of Harrisburg, one of the state's best known physicians, died Thursday at the Verser Clinic in Harrisburg, which he founded in 1937.

Longtime secretary of the Arkansas State Medical Board



## Health plan is dismissed by businessmen

WASHINGTON (AP) — President Clinton's health plan took another blow from business groups Thursday, with the U.S. Chamber of Commerce dismissing it even "as a starting point."

Rep. Jim Cooper, buoyed by support from the Business Roundtable, said he may broaden his rival bill to add benefits for long-term care.

Clinton shrugged off the business opposition, saying, "I wouldn't read too much into it. This is the beginning of what will be a protracted legislative discussion."

Continued from page 1A

TCI-

... Mitchell said the man was talking to medical technicians and did not appear to be seriously hurt. He said a witness told officials Daniels was "thrown out of the truck" when he received the shock.
... Jury deliberations in the Misskelley trial in connection with the murder of three eight-year-old West Memphis youths was continuing at the time.

Misskelley-

Misskelley chased the Moore child down and brought the youngster back to where he was killed.
At one point, David held an 8-by-10-inch color photograph of the Moore child, dressed in his Cub Scout uniform, above Misskelley's sowed head.
"Jessie Misskelley didn't let Michael Moore get away," Davis said. "He chased him down like a wild animal, and as a result of his actions, Steven Branch is dead, Christopher Byers is dead and Michael Moore is dead."
Davis added that had Misskelley let the Moore child escape, the youngster could have reported the crime and Byers and Branch might have only suffered serious injury in the attacks.
"If he hadn't chase down Michael Moore, Michael Moore would have lived. He would have got to go home. But because of what Jessie Misskelley Jr. did, Michael Moore doesn't go home anymore."
During the state's first hour and 15-minute argument, Fogleman emphasized that the boys' murders were premeditated.
Fogleman said Misskelley told police that at a cult meeting in Turrell, Echols "passed around" a photograph of the three boys.
"The defendant told police that Damien had been stalking these boys," Fogleman said. "That proves these murders were premeditated."
Fogleman added that Misskelley also told police that Baldwin called him on the morning that the boys were killed, asking that he go with him to West Memphis.
"Jessie told police that he knew that Damien and Jason were going to hurt the boys," Fogleman said. "He knew what they were planning

to do, and he chose to go with them that night. He decided he would go along on the night that these boys were killed."
In his 22-minute closing argument, defense attorney Dan Stidham outlined a number of what he called "reasonable doubts" for the jury.
Stidham said Misskelley should be acquitted because there was "no physical evidence" that linked him to the crime scene.
State crime experts testified that fibers found at Echols' and Baldwin's homes matched fibers found on the victims' clothing.
None of the fibers matched anything found at Misskelley's home, the experts testified.
Stidham also said there should be reasonable doubt in the juror's mind to the boys' rape because there was "no physical evidence" to back the claim.
Also, Stidham said that because Misskelley gave incorrect statements in his confession, the jury should have reasonable doubt.
In summary, Stidham said: "Killing one human being by another is only exceeded by the state killing an innocent man. My client, little Jessie Misskelley, is an innocent man."
Stidham asked the jury to return with a verdict that they "could live with for the rest of their lives."
In stressing Misskelley's participation in the crime, Davis said, only someone at the crime scene could have known certain facts in the case.
Misskelley told police that the Branch child was "cut in the face," and that the Byers child was castrated in the attacks.
Davis also said Misskelley told police that the boys were held by their ears, while being forced to perform oral sex.
During the rebuttal portion of the trial, Prosecutor Davis recalled West Memphis Police Inspector Gary Gitchell to the witness stand, questioning the officer about expert testimony given Wednesday by Richard Ofshe, a California social psychologist.
Gitchell testified that some remarks made by Ofshe were incorrect.
Gitchell said it was Misskelley that first mentioned the word "night" during interrogation by the officer.

"Jessie (Jr.) stated 'then they (Baldwin and Echols) called me at 9 that night,'" Gitchell said.
Ofshe testified Wednesday that Gitchell "coerced" Misskelley into using "night" as the time the boys were killed.
Gitchell was referring to Misskelley's statement that Baldwin telephoned him at home, and he could hear Echols in the background shouting: "We done it! We done it! What are we going to do if someone saw us? What are we going to do?"
Gitchell added that Ofshe was also mistaken when he testified that Misskelley had told officers that the murders happened at 9 in the morning on May 5.
"Detective (Bryn) Ridge said 9 in the morning, not Misskelley," Gitchell said.
In describing the room where Misskelley was interviewed by officers, Gitchell said: "It's probably the nicest room we have in the division."
Gitchell added that during the interview, Misskelley was "very relaxed" and was under no pressure from officers.
"The atmosphere was very laid back and of a subdued nature," Gitchell said. "We treated him with kid gloves, as if we were talking to one of our own children."
Gitchell noted that, on the tape, Misskelley can be heard "yawning three times."
In disputing Ofshe's testimony, Gitchell said Misskelley was able to pick out the Byers child as the youngster who was castrated in the attacks.
The state also recalled Dr. Vaughn Rickert, a psychologist for the University of Arkansas Medical Sciences in Little Rock, to testify.
Rickert said he had listened to Ofshe's testimony Wednesday, and was of the opinion that the information was not derived from a "scientific" method.
At that point, Stidham bolted from his chair and shouted: "He don't know that, your Honor."
Keith Mercier, formerly of the Highland Trailer Park, where Misskelley lived at the time of his arrest, testified that he had attended wrestling in Dyess "only one time," and it was before the boys were killed.
When asked to highlight his name on a contract that wrestlers were

required to sign before they wrestled, Mercier underlined his name at the bottom of the list.
Misskelley's signature appeared above Mercier's name on the list.
Mercier told the jury that he only attended the wrestling match on one occasion and it was before the boys were killed.
A number of defense witnesses testified earlier in the week that wrestlers were required to sign the form before they entered the ring, and that Misskelley was there on the night the boys were murdered.
Deputy James Dollahite of the Crittenden County Sheriff's Department, Patrolman Jason Oliver of the Marion Police Department and Cpl. Joe McCafferty of the Marion Police Department, testified that they did not see Misskelley in the Highland Trailer Park on May 5.
The officers were called to the trailer park for a disturbance. Several residents of the trailer park testified Tuesday that Misskelley talked to the officers during the disturbance call.
Gloria Wilson of West Memphis, an instructor for a driving course aimed at convicted drunk drivers, testified that Jessie Lloyd Misskelley Sr. was at a meeting on May 5, and did not leave until about 7:45 in the evening, when the meeting ended.
Misskelley Sr. testified Tuesday the meeting ended about 6:30, and that he saw his son in the trailer park talking to officers, shortly after 7.
The Marion radio dispatch log shows that officers left the trailer park at 6:55 that evening.
Nancy Mair of Corning, who attended most of the trial, said outside the courtroom after the jury started its deliberations that she hoped Misskelley would be found guilty of the crime.
"Anyone who would do this to young boys, deserves to have the same thing done to them," Shelby Misskelley, Jessie's mother, told reporters that she hoped prosecutors in the case could sleep well Thursday night.
"They're all a bunch of liars," added Jessie Misskelley Sr.
Security alone for Misskelley's trial cost Crittenden County about \$600 per day, totalling about \$4,200 through Thursday.
Clay County Sheriff David Stow

said he charged Crittenden County \$50 per man, per day, to provide security at the seven-day trial.

Health-

the way," Stephanopoulos said. "But in the end, we believe we're going to get exactly what the president has called for."
Another administration official, Bruce C. Vladeck, cautioned senior citizens that as pressure builds in Congress for less sweeping reforms, they could lose the Medicare prescription drug and long-term care benefits Clinton has promised.
"Those benefits are vulnerable," said Vladeck, whose Health Care Financing Administration runs Medicare.
He delivered that warning to worried leaders of the American Association of Retired Persons after Cooper told them he was trying to add "a good long-term care" benefit to his bill.
The Chamber of Commerce last year endorsed the idea of making both employers and employees kick in for health insurance. But the 215,000-member organization said Thursday it cannot support Clinton's employer mandate or any other mandate now before Congress.
The chamber's Robert E. Patricia told the House Ways and Means Committee the Clinton plan "proposes such a burden of high employer premium contributions, rich benefits and counterproductive regulation and... bureaucracy that we believe it cannot even be used as a starting point."
On Wednesday the Business Roundtable, a group of 200 corporate chiefs, called the Cooper bill "the best starting point for reform." Cooper's bipartisan bill would try to make health insurance more affordable without requiring employers to pay for coverage for their workers.
Other business groups piled on. Montgomery Ward and Co. Chairman Bernard F. Brennan, testifying for the National Retail Federation, said the employer mandate would wipe out low-wage jobs and hurt "the very people government is trying to help."
The National Association of Manufacturers and four other business groups wrote Cooper and Sen. John Chafee, R-R.I., urging them

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# **EXHIBIT F**

From Arkansas Democrat-Gazette

February 5, 1994, Saturday

SECTION: NEWS; Pg. 1A

LENGTH: 1488 words

HEADLINE: JURY CONVICTS MISSKELLEY TEEN DRAWS LIFE TERM IN SLAYINGS

BYLINE: GLEN CHASE AND LARRY YOUNG, Democrat-Gazette State Reporters

BODY:

CORNING -- Members of Jessie Lloyd Misskelley Jr.'s family burst into tears Friday after Circuit Judge David Burnett announced that jurors had convicted Misskelley of first-degree murder in the death of 8-year-old Michael Moore.

A Clay County jury Friday also convicted Misskelley, 18, of Marion (Crittenden County), of two counts of second-degree murder in the deaths of Christopher Byers and Steve Branch.

Burnett of Osceola (Mississippi County) accepted the jury recommendations and imposed the maximum penalties for the crimes -- life in prison for first-degree murder and 20 years each for the second-degree murder counts. He also set the sentences to run one after another.

A prominent Little Rock defense lawyer said anyone serving a life sentence for first-degree murder does not qualify for parole. "Life is life in Arkansas," John Wesley Hall said.

While some states allow parole for people serving life sentences, the only way they can be released in Arkansas is through executive clemency, Hall said.

"The difference is meaningless" between sentences of life in prison for first-degree murder and life in prison without parole for capital murder, he said.

"You just don't reduce life sentences without reason," he said.

The jury of seven women and five men deliberated 10/4 hours during two days before deciding not to convict Misskelley of capital murder in the deaths, choosing to convict on the lesser crimes. Jurors deliberated another 30 minutes to reach their recommendations on sentence lengths.

Prosecutors charged Misskelley with capital murder June 4, 1993, after he confessed to West Memphis police that he played a role in the May 5 slayings. That charge carries a sentence of death or life in prison without parole.

Jurors indicated in court that they did not wish to talk to the media about their deliberations.

Misskelley told police he helped subdue the victims but left before two other teen-agers killed them. He told police that co-defendants Damien Wayne Echols, 19, of West Memphis, and Charles Jason Baldwin, 16, of Marion, beat, cut and sexually abused the boys.

From Arkansas Democrat-Gazette

Searchers found the boys' nude bodies May 6 submerged in the Ten Mile Bayou drainage ditch near Interstate 40. They were bound hand and foot with their clothes pushed into the mud.

Echols and Baldwin are to go on trial Feb. 22 in Jonesboro.

During the trial, which began with testimony Jan. 26, defense attorneys claimed that police coerced Misskelley's confession. They called witnesses who testified that Misskelley wrestled in Dyess (Mississippi County) the night of the slayings.

Prosecutors argued that Misskelley's statement was voluntary.

Police suggested the slayings were cult-related. While one state witness said she attended a cult meeting with Misskelley and Echols, a police investigator testified he could not locate other cult members.

During the sentencing hearing after the verdicts, Prosecuting Attorney Brent Davis and Deputy Prosecuting Attorney John Fogleman asked the jury to impose the maximum penalties. A first-degree murder conviction carries a sentence of life or 10-40 years in prison. Second-degree murder carries a penalty of 5-20 years in prison and/or a \$ 15,000 fine.

"It's almost over for you," Fogleman told jurors. "But for the Moores, the Branches and the Byerses, it's not ever going to be over."

He said sentencing "is about responsibility."

Misskelley went to the crime scene, a wooded area known as Robin Hood Hill, knowing the boys would be beaten, Fogleman said. He said the jury needed to recommend a maximum sentence to "stop this kind of junk; stop kids from doing these stupid, crazy things."

Davis urged jurors to remember the terror the boys must have felt and urged jury members to recall pictures of the battered bodies.

"You'll want to shut out that memory for the rest of your lives," Davis said. "But think of the agony and torture those boys went through that afternoon."

Defense attorney Gregory Crow of Paragould urged jurors to consider "what Jessie said he did and what Jessie said he didn't do."

Crow noted that Misskelley, 17 at the time of the crime, comes from a troubled family and has a low IQ - in the mid-70s.

Tension grew when Burnett announced shortly before noon that the jury had reached a verdict.

Four state troopers waited in the back of the courtroom as three Corning police officers and four Clay County deputies stood between Misskelley and spectators while Burnett read the verdict.

From Arkansas Democrat-Gazette

Burnett warned spectators --including relatives of the victims and Misskelley -- that he would tolerate no "emotional outbursts."

None occurred, aside from quiet sobs from members of Misskelley's family.

During sentencing, Misskelley gave one- or two-word replies when Burnett asked if he understood the jury had convicted him. Misskelley indicated satisfaction with his defense attorneys.

Burnett ordered Sheriff Darvin Stow to immediately transfer Misskelley to the state Department of Correction.

Prison spokesman Alan Ables said Misskelley would be evaluated for one or two weeks at the department's Diagnostic Unit in Pine Bluff.

"He'll likely go to the Varner Unit" in Grady (Lincoln County), Ables said. "That's typical with youthful offenders." Ables said that could change because of the violence of Misskelley's offense and available bed space.

Outside the courthouse, the victims' parents said Echols' and Baldwin's upcoming trial needed similar verdicts.

Mark Byers spoke to reporters as he held his crying wife, Melissa, in his arms.

"It's some justice," said Byers, whose adopted son died. "Animals like that need to be locked up and put away."

"My son had no rights when he was brutalized and murdered on a ditch bank," Byers said.

Pamela and Terry Hobbs of Blytheville -- Steve Branch's mother and stepfather -- said the Misskelley verdicts satisfied them, but it may be too early for the healing to begin.

"We're going on," Terry Hobbs said. "We have another trial to attend."

Pamela Hobbs said she believes "justice will be served there, too."

The parents of Michael Moore -- Diana and Todd Moore of West Memphis --quickly left the courtroom without comment.

Later, when asked if the sentences pleased him, Moore replied, "What do you think?"

Misskelley said in his confession that Moore escaped. He told police he recaptured the boy and brought him back.

Melissa Byers spoke bluntly in her assessment of Misskelley's conviction.

"He deserves to be tortured for the rest of his life for murdering and torturing three little children," she

From Arkansas Democrat-Gazette

said, her eyes tearing and face turning red with emotion. "I hope they burn in hell," she shouted.

The Rev. Jim Roper, a Methodist minister who let Misskelley's family sleep on the floor of the First United Methodist Church in Corning, said the verdicts "shocked" and "dazed" Misskelley's family.

"His mother was bent over a table, sobbing. The rest of them were silently crying," he said.

Roper tried to comfort the family while giving them a \$ 25 check from a supporter. He also said the Misskelleys received several letters in support, addressed in care of the church.

Ellen Ellis, Misskelley's stepsister, said, "We ain't done. We hope Jesse can hold up."

While Misskelley said he helped subdue the boys, he told police he left the crime scene before his co-defendants. While he told police he saw at least one boy strangled, an autopsy report indicated no signs of strangulation.

Much of the trial testimony focused on the investigation conducted by West Memphis police that led to the arrests.

Defense attorneys criticized tactics police used to encourage Misskelley to talk, arguing that officers coerced a false confession.

Crow said an appeal would be filed, but declined to discuss specifics.

"I'm satisfied with the way we presented the case," he said.

Davis and Fogleman said it would be inappropriate to comment because Echols and Baldwin still must be tried.

Davis declined to say whether any attorneys had tried to work out a reduced sentence in return for Misskelley's testimony in the upcoming trial. Case law forbids use of Misskelley's confession at the next trial. Prosecutors cannot force Misskelley to testify.

Police inspector Gary Gitchell told reporters that the verdict vindicated his department.

The key evidence was "Jessie Misskelley himself. That was the point he could not argue," Gitchell said after the verdict.

Gitchell said he was satisfied with the lesser murder convictions. "The good people of Clay County vindicated me, personally," he added.

Gitchell said he felt sorry for the victims' families and for the Misskelley family: "This tragedy touched both the families and the community. It even reached into Clay County."

Defense attorneys expressed disappointment with the verdicts.

From Arkansas Democrat-Gazette

"Right now it's kind of hard to think," Daniel T. Stidham of Paragould said as he waited for the sentencing phase to begin. "I'm just glad they did not come back with capital murder."

GRAPHIC: Image: Photos by Rick McFarland, Arkansas Democrat-Gazette FAMILY COMFORT -- Jessie Lloyd Misskelley Sr. hugs his wife, Shelbia (center), and an unidentified relative Friday after Jessie Misskelley Jr. was found guilty of one count of first-degree murder and two counts of second-degree murder. Ellen Ellis, Jessie Misskelley Jr.'s stepsister, is at left. FOUND GUILTY -- Jessie Lloyd Misskelley Jr. watches Circuit Judge David Burnett on Friday during the sentencing phase of his trial. Misskelley received a sentence of life plus 40 years. ORDEAL ENDS -- Mark Byers, the adoptive father of Christopher Byers, and his wife, Melissa, Chris' mother, embrace Friday outside the Clay County Courthouse. Jessie Lloyd Misskelley Jr. was found guilty Friday in the murder of their son and two other 8-year-old West Memphis boys in May 1993.

# **EXHIBIT G**

From Arkansas Democrat-Gazette

February 23, 1994, Wednesday

SECTION: NEWS; Pg. 1A

LENGTH: 1055 words

HEADLINE: JUDGE LEAVES DOOR OPEN FOR MISSKELLEY TO TESTIFY

BYLINE: GLEN CHASE, Democrat-Gazette State Reporter

**BODY:**

JONESBORO -- Circuit Judge David Burnett cleared the way Tuesday for Jessie Lloyd Misskelley Jr. to testify against two co-defendants charged with capital murder in the deaths of three West Memphis 8-year-olds.

But Burnett ruled that any statement Misskelley gave prosecutors since his Feb. 4 murder convictions is inadmissible hearsay unless Misskelley takes the stand -- which is still uncertain.

Defense attorneys accused prosecutors Tuesday of improperly urging Misskelley to make a statement or testify against co-defendants Damien Wayne Echols, 19, of West Memphis, and Charles Jason Baldwin, 16, of Marion.

"There was no prosecutorial misconduct," Burnett said in a bench ruling. "Jessie Misskelley may be permitted to testify if he chooses to do so."

The debate over Misskelley's possible testimony sidetracked jury selection on the first day of Echols' and Baldwin's trial.

"We have alleged the prosecutors have engaged in misconduct" in attempting to secure any statement from Misskelley, attorney Paul Ford said after a private hearing before Burnett.

Ford, of West Memphis, and George "Robin" Wadley Jr. of Jonesboro, represent Baldwin. Val P. Price and Scott Davidson, both of Jonesboro, represent Echols.

The defense filed a motion Tuesday accusing Prosecuting Attorney Brent Davis of trying to influence potential jurors in a "grandstand play" by emphasizing a statement Misskelley reportedly made Feb. 4.

It claimed prosecutors tried to circumvent Misskelley's due process rights and interfered with his attorney-client relationship.

Misskelley's testimony or statement is important to prosecutors. In a June 3, 1993, confession to West Memphis police, he said he helped Echols and Baldwin subdue the victims on May 5 and watched as the teen-agers beat and sexually abused Christopher Byers, Michael Moore and Steve Branch.

That confession can't be used in his co-defendants' trial under prior court rulings. Misskelley can't be forced to testify, but prosecutors have spent the past week encouraging Misskelley to make a statement or



From Arkansas Democrat-Gazette

testify against his friends.

Davis and Deputy Prosecuting Attorney John Fogleman declined comment about whether Misskelley will testify or about their efforts to secure his testimony. But both said they were pleased Burnett rejected complaints that they acted improperly.

"I feel somewhat vindicated," Davis said. "I'm not very fond of being accused of misconduct."

Echols and Baldwin are each charged with three counts of capital murder in the deaths, which police believe was cult activity.

Searchers found the second-graders bound hand and foot, submerged in the Ten Mile Bayou drainage ditch near Interstate 40 in West Memphis. All were nude and had been beaten. Christopher was sexually mutilated.

A Clay County jury earlier this month convicted Misskelley of first- and second-degree murder in the case. Burnett sentenced him to life in prison plus 40 years.

To help resolve the statement issue, Craighead County deputies brought Misskelley into the courthouse about 2:45 p.m. and immediately took him into Burnett's chambers. He left at 4:15 p.m., making no comment to reporters about whether he would testify.

While Misskelley was at the courthouse, Burnett appointed a third attorney to interview Misskelley, Phillip Wells of Jonesboro. Burnett declined to say why.

Daniel T. Stidham and Gregory Crow, both of Paragould, represent Misskelley. Stidham declined comment after the hearing, saying, "I'm not in any position ethically to make a comment."

Stidham said he will file a similar motion alleging prosecutorial misconduct in Clay County where Misskelley's trial was held.

Burnett denied every part of the motion by the attorneys for Echols and Baldwin, including a request for a special prosecutor to investigate the allegations.

In the defense motion, Echols' and Baldwin's attorneys called for Burnett to dismiss charges against their clients; bar prosecutors from talking to Misskelley; forbid Misskelley from testifying; and suppress any statements he made to police or prosecutors after his conviction.

They also asked the judge to hold prosecutors in contempt of court.

Their motion claimed prosecutors repeatedly tried to get Misskelley to talk, beginning with the deputy who drove Misskelley on Feb. 4 from Corning to the Diagnostic Unit in Pine Bluff after Misskelley's conviction.

Stidham indicated he told prosecutors his client did not want to make a statement.

From Arkansas Democrat-Gazette

The defense motion said that Fogleman contacted Misskelley's father Feb. 16 to ask him to convince his son to testify "in exchange for a 40-year sentence."

The motion said that Clay County Deputy Prosecuting Attorney C. Joseph Calvin called Misskelley's attorneys Feb. 17 and said Misskelley wanted to make a statement. Misskelley was told not to say anything.

The motion claimed the Craighead County deputy who drove Misskelley to Calvin's office in Rector "elicited statements from the defendant." The deputy reportedly encouraged Misskelley to testify against his co-defendants and claimed the officer "even promised to bring Jessie Lloyd Misskelley Jr.'s girlfriend to the jail to visit him."

When Stidham and Crow arrived in Rector that night, Davis was at Calvin's office "and had communicated with their client without their knowledge and consent."

The motion claimed that when Stidham and Crow attempted to speak privately with Misskelley, "Davis and Calvin burst into the conference room and demanded to take a statement" from Misskelley.

When defense attorneys objected, the motion stated, prosecutors expressed concern that Misskelley would decline to make a statement. The motion said Misskelley then declared he wanted to make a statement and left the room, refusing to speak to his attorneys.

Burnett agreed to allow prosecutors to offer Misskelley "use immunity" for his statement. Use immunity would prevent the statement from being used against Misskelley in future hearings, including appeals.

The motion said prosecutors visited Misskelley on Friday, Saturday and Sunday without his attorneys' knowledge.

The motion states that Arkansas law bars prosecutors from calling a co-defendant as a witness if they know the co-defendant has been advised to assert his constitutional right not to incriminate himself.

Jonesboro Bureau Chief Larry Young contributed to this story.

GRAPHIC: Image: Photo by David Gottschalk, Arkansas Democrat-Gazette TRIAL UNDER WAY -- Craighead County Sheriff Larry Emison (left) escorts Damien Wayne Echols in handcuffs Tuesday into the Craighead County Courthouse. Attorneys are trying to seat a jury in the capital murder trial of Echols and Charles Jason Baldwin. The two teen-agers are accused of killing three 8-year-old boys.

# **EXHIBIT H**

From Arkansas Democrat-Gazette

**MARCH 1994**

March 1, 1994, Tuesday

SECTION: NEWS; Pg. 1A

LENGTH: 1655 words

HEADLINE: 'WEIRD' ECHOLS PAINTED AS WITCH-HUNT PREY

BYLINE: LARRY YOUNG AND GLEN CHASE, Democrat-Gazette State Reporters

**BODY:**

-- A defense attorney described his client as "weird" and not an "All-American boy," but denied that Damien Wayne Echols was present when three West Memphis 8-year-old boys were beaten and killed last May.

On the opening day of testimony Monday, defense attorneys picked apart prosecution testimony as prosecutors set the stage for possible testimony from a fourth 8-year-old who may have witnessed the crime.

Scott Davidson, one of two Jonesboro attorneys representing Echols, one of the two Crittenden County teen-agers on trial for three counts of capital murder, told jurors that police ineptly investigated the slayings of Christopher Byers, Michael Moore and Steve Branch.

Investigators became "sloppy" because they had "Damien Echols tunnel vision" and refused to look at other evidence they found, Davidson said during opening arguments.

Echols, 19, of West Memphis and a second defendant, Charles Jason Baldwin, 16, of Marion are on trial in the May 5, 1993 deaths of the three second-graders. The prosecution is seeking the death penalty. A jury found a third defendant, Jessie Lloyd Misskelley Jr., 18, of Marion, guilty earlier this month of first-degree murder and two counts of second-degree murder. Circuit Judge David Burnett of Osceola sentenced him to life in prison, plus 40 years.

Davidson said Echols' reputation resulted in his being singled out by police. Echols liked to dress in black and reportedly carried around a cat skull.

The teen-agers reportedly belonged to a cult. No motive for the slayings has been provided by prosecutors.

"You are also going to see that our client, Damien Echols, well, I'll be honest with you, he's not the all-American boy. In fact, he's kind of weird. He's not the same as maybe you and I might be," Davidson said.

Police found the victims May 6 bound hand and foot, submerged in the bottom of a drainage ditch

From Arkansas Democrat-Gazette

connected to the Ten Mile Bayou drainage channel behind the Blue Beacon Truck Wash off Interstate 40 in West Memphis.

Police arrested the three teen-agers based on a statement Misskelley gave police describing their involvement in the killings. For the last several weeks, prosecutors have tried to get Misskelley to testify against his friends.

Misskelley's relatives said Monday morning that he will not testify.

Prosecutors called the victims' mothers Monday to describe when they first noticed their children missing the night of May 5.

Two neighborhood residents reported seeing the boys around 6 p.m. Debra O'Tinger said she saw them run past her home toward Robin Hood Hill.

Another neighbor, Bryan Woody, testified that as he left to pick his wife up at work, he saw four boys walking on a street leading to Robin Hood Hill. While two of the boys rode bicycles, a third carried a skateboard, he said. A fourth, with "spiky blond hair," followed. However, Woody said, he drove by too quickly to identify the children.

On Feb. 17, Victoria Hutcheson of Marion said her 8-year-old son, Aaron, told her that he watched the killings. At a pretrial hearing, Echols' attorney, Val P. Price of Jonesboro, said Aaron may have told police that the adoptive father of one boy, Mark Byers, could have been present.

Byers labeled the suggestion "a bald-faced lie."

West Memphis police inspector Gary Gitchell used part of Aaron's statement, a tape recording of the boy saying "Nobody knows what happened but me," to encourage Misskelley to confess. The entire tape recording has never been played in court or released by police. Both Gitchell and Fogleman have said Aaron never told them that Byers could be involved.

During opening arguments, one of Baldwin's two attorneys, Paul Ford, told jurors that police found no evidence linking his client to the crimes.

Ford said opening statements by lawyers are like directions on how to put together a puzzle. Sometimes the picture on the front of the box is needed to help, he said, but police "don't have the box that came with this puzzle."

Police questioned transients, homeless people, truck drivers and military veterans in the search for a suspect. They even used an FBI-generated criminal profile of a sex offender, Ford said.

"They began looking for known sex offenders, but they weren't looking for a 16-year-old boy," Ford said, referring to Baldwin.

He said the West Memphis police, aided by Crittenden County deputies, state police and the FBI crime laboratory in Virginia, could find no evidence putting his client at the crime scene.

From Arkansas Democrat-Gazette

"From their own tests they found nothing, not even a drop of blood," Ford said.

Deputy Prosecuting Attorney John Fogleman admitted that the prosecution would have to put on "negative evidence" that comes from the Arkansas Crime Laboratory and taken at the crime scene, but doesn't connect the crime to a particular person.

"There was no blood, no blood, at all," Fogleman said.

There were no fingerprints on the two bicycles found at the scene either, Fogleman confirmed. Despite that, "The proof is going to show that scientific evidence, statements of these own defendants, and other evidence, that they caused the deaths ... ."

Prosecutors introduced evidence at Misskelley's trial that linked fibers from T-shirts taken from Baldwin's and Echols' homes to fibers found at the crime scene.

Defense attorneys got their first chance to raise the potential for an alternative suspect when West Memphis Patrolman Regina Meek testified about a call she made to a local restaurant whose manager reported that a "bloody black man" used the restroom the night of the killings.

Meek said she drove to the restaurant, but didn't get out of her car to investigate. The man left before she arrived.

Defense attorneys raised the same issue at Misskelley's trial.

Fogleman discounted the report then, asking why someone would take the time to clean a crime scene only to appear in public covered in blood. Significant events leading to the trials of Jessie Lloyd Misskelley, Charles Jason Baldwin and Damien Wayne Echols:

-- May 6, 1993 -- Authorities find the bodies of 8-year-olds Christopher Byers, Michael Moore and Steven Branch in a drainage

ditch off Interstate 40 near a West Memphis area known as Robin Hood Hill.

-- May 8 -- Police say the boys had their hands and feet bound, and died from blows to the head.

-- June 3 -- Police arrest Michael Wayne "Damien" Echols, 19, of West Memphis; Charles Jason Baldwin, 16, and Jessie Lloyd Misskelley, 17, both of Marion. Crittenden County prosecutors charge each with three counts of capital murder.

-- June 9 -- A Memphis newspaper publishes a transcript of statements Misskelley gave police June 3. In the transcript, Misskelley says Echols and Baldwin killed the boys while he watched, and that the three teen-agers belong to a cult whose members eat dogs during rituals.

-- July 8 -- Circuit Judge David Burnett of Osceola is selected to

From Arkansas Democrat-Gazette

try the three teen-agers.

-- Aug. 5 -- Each teen-ager pleads innocent.

-- Sept. 20 -- Worried about adverse publicity, defense attorneys ask to move the trial from Crittenden County. Burnett agrees to try the teen-agers in Craighead County. He later agrees to move Misskelley's trial to Corning (Clay County).

-- Sept. 28 -- Witnesses place Echols and girlfriend Domini Teer near the murder scene May 5, the day that authorities believe the boys died. Detective Bryn Ridge confirms the sexual molestation of one of the slain boys. Burnett orders the suspects to provide prosecutors with samples of hair, saliva, blood, handwriting and other items.

-- Nov. 4 -- The judge sets Misskelley's trial for Jan. 18, 1994. The trial of Echols and Baldwin is set for Feb. 22, 1994, in Jonesboro.

-- Dec. 12 -- Burnett hears defense objections, but rules all three defendants may face the death penalty.

-- Jan. 8, 1994 -- Defense experts say police gave Misskelley a

faulty lie detector test. One expert claims Misskelley may not have had a hand in the slayings. Misskelley's attorneys later say police lied to Misskelley to get him to confess.

-- Jan. 13 -- Parts of Misskelley's taped confession are played at a court hearing in which defense attorneys ask the judge to suppress

the statement. Misskelley claims in the statement that Echols and Baldwin beat and abused the victims as he watched.

-- Jan. 20 -- Jury selection is completed. Seven women and five men are chosen from a pool of about 300 people. Resumption of trial delayed until Jan. 26. Burnett said the delay was "in the best interests of justice" but didn't elaborate.

-- Feb. 4 -- Misskelley is convicted of first-degree murder in the death of Michael Moore and sentenced to life in prison. Misskelley is convicted of two counts of second-degree murder in the other two

boys' deaths and receives two 20-year sentences to be served consecutively.

-- Feb. 11 -- Judge Burnett denies a defense motion to try Baldwin

and Echols separately.

-- Feb. 16 -- Police confiscate a 3-foot wooden club from the home where Echols' once lived. The trailer's new tenant finds the club, painted red and with dark stains and hairs on one end, in a bedroom closet. At a hearing held earlier, Burnett refuses to allow prosecutors or defense attorneys to review separate interviews recorded by a documentary film crew with Baldwin and Mark Byers, Christopher's adoptive

From Arkansas Democrat-Gazette

father.

-- Feb. 22 -- Jury selection for Echols' and Baldwin's trial in Jonesboro is delayed one day as attorneys wrangle over whether Misskelley will testify against his two friends. Burnett denies a defense motion claiming prosecutors improperly bypassed Misskelley's defense attorneys in attempts to secure a statement or testimony.

-- Friday -- Attorneys select a jury of eight women and four men for Echols and Baldwin following three days of closed-door questioning.

-- Monday -- Testimony opens in Baldwin's and Echols' trial. Whether Misskelley will testify remains uncertain. Prosecutors offered Misskelley a reduced sentence and limited immunity for testimony.

GRAPHIC: Image: Arkansas Democrat-Gazette//David Gottschalk LUNCH BREAK -- Charles Jason Baldwin (left), 16, and Damien Wayne Echols, 19, wait after lunch Monday for the continuation of their capital murder trial in the May 1993 deaths of three 8-year-old West Memphis boys. Lawyers entered two of the boys' bicycles (behind Baldwin) into evidence Monday morning. Witnesses said they last saw the boys riding the bikes in their neighborhood near where authorities found their bound and beaten bodies the next day. Arkansas Democrat-Gazette//David Gottschalk FIRST-DAY TESTIMONY -- Damien Wayne Echols' attorney, Scott Davidson, questions West Memphis patrol officer Regina Meek about her activities on the day officers found three West Memphis boys missing. Echols and Charles Jason Baldwin are charged with three counts of capital murder each in the boys' slayings. Testimony in their trial began Monday in Jonesboro.



# **EXHIBIT I**

# The Jonesboro Sun

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WEDNESDAY, MARCH 2, 1994

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**DISCUSSING EVIDENCE**  
Detective Byrn Ridge (left) with the West Memphis Police and Deputy Prosecuting Attorney John Fogleman discuss evidence pertaining to the West Memphis triple-murder case in court Tuesday. Testimony in the case will continue this morning at 9:30.

## Piece of evidence lost

By STAN MITCHELL  
Sun Staff

A West Memphis police detective admitted on cross-examination Tuesday that he lost a piece of evidence that pertained to the West Memphis triple-murder case.

Detective Byrn Ridge told an eight-woman, four man jury in the trial of Damien Wayne Echols and Charles Jason Baldwin that he took blood samples from a restroom wall at the West Memphis Bojangles restaurant, but the evidence never made it to the state Crime Lab in Little Rock for testing.

"They never were sent," Ridge said. "They are lost. That's my mistake; I lost a piece of evidence."

Defense attorneys for Echols and Baldwin suggested that had the evidence not been misplaced, it could prove their clients are not responsible for the May 5 deaths of eight-year-old Steven Branch, Christopher Byers and Michael Moore.

On Monday, Regina Meek, a pat-

## Court rules judge was wrong

By CAROL GRIFFEE  
Little Rock Bureau

**LITTLE ROCK** - Over the vigorous objections of Chief Justice Jack Holt Jr., the Arkansas Supreme Court ruled emphatically Tuesday that Craighead County Circuit Court Judge David Burnett was wrong in allowing potential Echols/Baldwin murder trial jurors to be questioned in his chambers.

However, the court was silent on the issue of releasing tapes or transcripts of the questioning. In a three-page order released

late Tuesday, the Supreme Court said Burnett "was in error in excluding the public and Memphis Publishing Co. from your dire (questioning of potential jurors) in this trial."

Voir dire is the questioning by attorneys of potential jurors to discover any reasons they may have that would keep them from being able to decide a case strictly on facts and the law.

The high court added, however, that there was no error in Burnett allowing the juror ques-

SEE COURT-14A

rolman for the West Memphis Police Department, testified that while she was searching for the missing boys on the evening of May 5, she was dispatched to Bojangles for a disturbance call involving a blood-covered black man.

When she arrived at the eating establishment, Meek said she did not enter the building, but spoke to the restaurant manager, Marty King, at the drive-through window.

SEE PIECE-14A

## Balanced amendment to clear

WASHINGTON (AP) - Falling four votes shy of a two-thirds majority, the Senate on Tuesday rejected a balanced budget amendment to the Constitution that supporters said would end the government's staggering run-up of red ink.

The 63-37 vote capped a debate that blended Constitutional and economic arguments on an issue that Congress has wrestled with for more than a decade.

"We must not feed the nation this poison pill," Sen. Robert C. Byrd, D-W.Va., said shortly before the final vote. He said the amendment would damage the Constitution's balance of powers and undermine majority rule without necessarily erasing deficits.

But Sen. Paul Simon, D-Ill., countered that for "25 years in a row we have had deficits," and said the national debt has grown steadily in his two decades in Congress. Sooner or later, he warned, the government would resort to printing "funny money" to sustain that debt. "We ought to stop this before we get to the edge of the cliff."

Forty-one Republicans and 2 Democrats voted in favor of the amendment. Thirty-four Democrats and three Republicans were

## Bosnian Muslims and Croats in

WASHINGTON (AP) - Bosnian Muslims and Croats agreed Tuesday on the framework for establishment of a federation that could move Bosnia a significant step closer to peace. "It shows that peace is possible," Secretary of State Warren Christopher said.

Brokered by the United States, the agreement would bring together two of the three parties in a bloody two-year ethnic conflict that has cost the lives of more than 200,000 people. Missing from the equation are the Bosnian Serbs who have military control over more than half the former Yugoslav republic.

The agreement creates a federal

## Accused spy 'earned' \$2.7 million

... of the total for Ames

Continued from page 1A

Piece-

Meek said King told her that the black man, wearing black pants, was found "bleeding" in the ladies room of the restaurant.

King told Meek the man had already left the building by the time the officer had arrived, Meek testified.

"After I couldn't find anyone at Bojangles, I went back to the area where they were last seen," Meek said.

Meek added that she did not follow up on the Bojangles incident, although King told her the man had left blood on the bathroom wall.

Since the restaurant, located about a mile from the crime scene, was not in Meek's patrol district, she said she "did not connect the two (incidents) at all."

On the day that the boys' bodies were found in a trash-strewn ditch, Ridge said, he and Detective Mike Allen returned to Bojangles and took the blood samples.

Val Price, Echols' court-appointed attorney, also asked Ridge about a pair of sunglasses that the black man reportedly left at the restaurant.

"I don't recall a pair of sunglasses," Ridge said.

Like Ridge, Allen testified Monday that he could not recall King providing officers with the pair of sunglasses.

During Ridge's testimony, Circuit Judge David Burnett asked the jury leave the courtroom, and held an in-camera hearing.

Price was wanting to question Ridge about a police report taken from Kim Williams of West Memphis, but Burnett ruled the testimony would be hearsay.

Williams allegedly told Ridge that she saw two black males, and a white male, leaving Robin Hood Hill, the site where the boys' bodies were found, around 6 on the evening the children were reported missing.

Price said Ridge wrote in his police report that "cult members" often blacken their faces during cult meetings.

Price also questioned Prosecutor Brent Davis and Deputy Prosecutor John Pogleman about whether the state will attempt to prove the killings were cult related.

Under Arkansas law, the state does not have to provide a motive for the murders in order to prove

their case.

"If the state attempts to prove the killings were a cult-related act, then it will open the door to attack the (police) officers on the statement," Burnett said. "But as of now, I'm ruling that a police report is hearsay, and I'm not going to allow it."

Also Tuesday, Price hammered Ridge about a five-foot stick that was found stuck in the mud, near where the boys' submerged bodies were discovered.

While the stick, which had one of the boys' shirts wrapped around it, was removed from the water on May 6, it was not taken into evidence until two months later.

Ridge said when he removed the stick, he placed it on the east side of the ditch bank, but did not return to retrieve it until July 1.

Ridge added that he did not realize the importance of the stick until the statement of Jessie Lloyd Misskelley.

When Ridge referred to Misskelley by name, Price shouted: "Your Honor, I move for a mistrial."

Once jurors returned to the courtroom, Burnett ordered them "not to consider the last response by Detective Ridge."

During a court recess, Echols told reporters that he did not want Burnett to grant his attorney's request for a mistrial.

"I don't want a mistrial, I want to get this over with," Echols said.

Under the hearsay law, the state is prevented from telling jurors about Misskelley's June 3 confession to West Memphis police, and can only enter the statement into evidence if Misskelley agrees to testify against Echols and Baldwin.

On that issue, Jonesboro attorney Phillip Wells, whom Burnett asked to determine if Misskelley could decide on his own testify, said he met with Misskelley and his attorney, Greg Crow, Monday evening in Clay County.

Crow could not be reached for comment.

Although Misskelley has apparently changed his mind on several occasions as to whether or not he will testify, Wells told reporters Tuesday that Misskelley would make a decision soon.

"I think he will make a decision sometime today (Tuesday)," Wells said.

The attorney declined comment on what offers, if any, the state had

made to Misskelley to get him to testify in the case.

In a motion, filed by Price last week, it was alleged that prosecutors had offered to lower Misskelley's prison sentence to 40 years in exchange for his truthful testimony.

Prosecutors in the case denied the allegation.

Although Wells told reporters that he would announce Misskelley's decision later Tuesday, Paul Ford, Baldwin's attorney, objected to Wells talking with the media.

At Ford's request, Judge Burnett sent an order to Wells not to talk with reporters about the Misskelley situation.

Wells could not be reached for comment Tuesday evening.

Ford also asked Burnett to order reporters not to print Wells statements, but the request was denied.

"I'm not going to go that far," the judge said.

Burnett told reporters that his instruction to Wells was not a "gag order," which would subject the attorney to contempt of court if he talks about the matter.

The judge said he would announce Misskelley's decision to reporters as soon as he receives word on it.

When court ended Tuesday afternoon, Burnett said he had not talked with Wells, and did not anticipate doing so later in the evening.

As testimony in the case got underway, Ridge described how he collected the victim's clothing from the ditch.

Ridge said as he retrieve the wet clothing, he placed it in paper bags, then took it to his West Memphis office to dry.

The clothing included a pair of white tennis shoes, a pair of black tennis shoes, two pairs of blue jeans with one containing a wallet, the Moore child's Cub Scout uniform and cap, a pair of child's underwear that was found clinging to a limb near the ditch bank, a white polka-dotted shirt, a white shirt and a striped shirt.

Two pairs of the pants, Ridge testified, were found turned inside out with the button and zipper still fastened.

Ridge also testified about footprints found at Devil's Den in Robin Hood Hill, an area about 400 yards from where the three boys were found.

"It appeared it could have been a footprint, but there just wasn't enough definition to know for sure," Ridge said.

When asked by Price if shoes confiscated from Echols' home match-

ed any of the prints found at the crime scene, Ridge said no.

While police combed the crime scene for days looking for clues, Ridge said "not a drop of blood" could be found.

Also, Frank Peretti, a medical examiner for the State Crime Lab, testified about the extent of injuries to the boys' bodies.

In a second in-camera hearing, outside the jury's presence, defense attorneys asked Burnett to prevent prosecutors from questioning Peretti about a six-inch survival knife, believed to be the weapon recovered from a pond near Baldwin's home.

Peretti said the knife was consistent with a weapon that would have caused some of the wounds to the boys' bodies.

During the closed hearing, Price produced a second knife, which he labeled as "The John Mark Byers knife," and asked Peretti if the weapon was consistent with smaller wounds to the Byers child's body.

Peretti said the "Byers" knife was consistent with the wounds to the child's body.

Burnett ordered defense attorneys not to call the weapon "The John Mark Byers Knife," and only refer to the weapon as "defense exhibit six."

The elder Byers' man allegedly gave the knife to a film crew from Creative Thinking International, which is working on a documentary about the trial for Home Box Office.

Joe Berlinger and Bruce Snofsky of Creative Thinking International, said they could not comment on the weapon.

The defense has attempted to build its case on an alleged statement from Aaron Hutcherson, an eight-year-old friend of the victims, who told police that Byers was present when they boys were killed.

Byers called the allegation a "baldfaced lie."

Peretti also testified that the boys were "hog-tied" with shoe strings, and that while two of the boys died from drowning, the Byers child bled to death.

Testimony in the case will continue this morning at 9:30.

Court-

tioning to take place outside the hearing of other prospective jury members.

Holt dissented, writing that Burnett had clearly balanced the defendants' right to a fair trial against the public's right to know.

Some of the juror questioning

took place publicly, the justices were told Monday.

However, Deputy Attorney General Clint Miller told the Supreme Court Monday that Burnett's decision on voir dire was granted at the request of both defense and prosecution. The attorneys had asked that the questioning of jurors about such "sensitive" matters as child sexual abuse and their views about "devil worship" be moved to the judge's chambers.

The challenge to the partial closing of juror questioning came from the owner of the Memphis Commercial Appeal.

Shortly after receiving a copy of the decision by facsimile machine, Burnett said, "I will follow whatever order of the court I am instructed to follow."

The court did not order Burnett to do anything, however.

In oral arguments before the Supreme Court Monday morning, the Commercial Appeal's attorney asked that Burnett be ordered to make tapes or transcripts of the closed juror questioning available immediately.

However, the court noted in its order that no such request was contained in the written petition the newspaper filed for a writ of mandamus, an order compelling a public official to follow the law, against Burnett. The rest of the order was silent about the request for tapes or transcripts.

The Supreme Court said the only question before it was whether Burnett's action was valid.

"It is clear by what has been said that we have answered with an emphatic No!" the order said.

The Supreme Court's order tracked the line of questions Associate Justice Tom Glaze put to the attorneys during oral arguments. For example, he noted that the court had decided previous similar cases on the guarantee of a public trial in the state and federal constitutions and in our statutory law.

According to the Supreme Court's order, in a previous case it had ruled, "Certainly members of the public, probably including members of a victim's family, have the right to hear the voir dire examination of individual jurors."

"This may well have a salutary effect," the ruling said. "Cases have been reversed in this court because of answers given by prospective jurors on voir dire which subsequent investigation established were false or at least incorrect and which might have well have disqualified the prospective juror."

The state had asked the Supreme Court to allow trial court judges to close voir dire, using the guidelines set forth for closing pre-trial hearings on the issue of suppressing evidence. The court declined, repeating that voir dire is a part of a trial and trials are to be open.

In his dissenting opinion, Holt wrote that a defendant's right to a fair trial should take precedence over the public's right to access to voir dire proceedings.

Holt wrote that, in previous cases it has decided, the court "oversimplified the issues and gave short shrift to a defendant's right to receive a fair trial, creating what appears to be an absolute right to open hearings regardless of the circumstances."

Holt said trial judges should be given more flexibility to achieve a balance between two conflicting rights.

Damien Wayne Echols, 19, of West Memphis, and Charles Jason Baldwin, 16, of Marion, are on trial in Jonesboro on capital murder charges. They are accused of killing three 8-year-old West Memphis boys last May.

Deaths/Funerals

Mrs. Ford

Mrs. Marjorie Payne Ford, 74, of No. 6 Happy Go Lucky Lane in Paragould, died Tuesday at Arkansas Methodist Hospital of Paragould.

She was a member of the First United Methodist Church and was a former Sunday School teacher. She was active in the Arkansas Methodist Hospital Auxiliary and active in volunteer work in the hospital. She was preceded in death by her parents and one brother.

Survivors include her husband, James Russell Ford of Paragould; one son, Mike Ford of Paragould; one daughter, Mrs. Cindy Ford Harris of Paragould; and five grandchildren.

Funeral services will be Thursday morning at 10 at the First United Methodist Church with Rev. Joe Kennedy officiating. Burial will follow in Linwood Cemetery, Mitchell Funeral Home of Paragould is in charge of arrangements.

Visitation will begin after 6 this evening at the funeral home.

BLACK HOLE

Time would stand still on the surface of a black hole, a superdense body created when a massive star collapses of its own gravitational pull.

# **EXHIBIT J**

THIS IS JOHN FOGLEMAN, DEPUTY PROSECUTING ATTORNEY FOR CRITTENDEN COUNTY, ARKANSAS. IT IS 2:53 P.M. SEPTEMBER 10, 1993. PRESENT IS DOMINI TEER, HER APPOINTED ATTORNEY, GERALD COLEMAN, HER MOTHER DIANE TEER, MYSELF AND INSPECTOR GITCHELL OF THE WEST MEMPHIS POLICE DEPARTMENT. DOMINI, IN ORDER TO DO THIS, YOU'RE HERE PURSUANT TO A PROSECUTING ATTORNEY SUBPOENA, SO TO IN THAT, YOU'LL HAVE TO BE PUT UNDER OATH. DO YOU UNDERSTAND THAT?

DOMINI- OH HUH.

FOGLEMAN- OKAY. YOU NEED TO RAISE YOUR RIGHT HAND. DO YOU SOLEMNLY SWEAR OR AFFIRM THAT YOU'LL TELL THE TRUTH IN THIS STATEMENT YOU'RE ABOUT TO GIVE ME PURSUANT TO THE PROSECUTING ATTORNEY SUBPOENA. TELL ME THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH. YOU NEED TO SPEAK OUT.

DOMINI- YES I DO.

FOGLEMAN- STATE YOUR NAME AND ADDRESS.

DOMINI- DOMINI TEER...

FOGLEMAN- GO AHEAD.

DOMINI- DOMINI TEER, 6836 MUSTAKE DRIVE.

FOGLEMAN- ALRIGHT, AND HOW OLD ARE YOU DOMINI?

DOMINI- 16.

FOGLEMAN- ALRIGHT, WHAT IS YOUR FULL NAME?

DOMINI- DOMINI ALIA TEER.

FOGLEMAN- WHAT'S YOUR DATE OF BIRTH?

DOMINI- 21 UN, 11/21/76.

FOGLEMAN- DO YOU GO TO SCHOOL?

DOMINI- NO.

FOGLEMAN- ALRIGHT, WHEN DID YOU LAST ATTEND SCHOOL?

DOMINI- OH... LAST YEAR, IN THE 10TH GRADE.

FOGLEMAN- WHAT TIME, I MEAN DID YOU GO THE WHOLE YEAR?

DOMINI- NO.

FOGLEMAN- WHEN DID YOU LEAVE SCHOOL?

DOMINI- ABOUT THE MIDDLE OF LAST YEAR.

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FOGLEMAN- WAS IT BEFORE OR AFTER CHRISTMAS, OR DO YOU REMEMBER?

DOMINI- I DON'T REALLY REMEMBER.

FOGLEMAN- YOU DON'T REMEMBER WHETHER IT WAS BEFORE OR AFTER CHRISTMAS?

DOMINI- I THINK IT WAS BEFORE CHRISTMAS.

FOGLEMAN- OKAY. AND WHY DID YOU LEAVE SCHOOL?

DOMINI- I GOT PREGNANT.

FOGLEMAN- THAT WAS WHY YOU LEFT SCHOOL.

DOMINI- OH HUH.

FOGLEMAN- OKAY. HOW LONG HAVE YOU LIVED AT YOUR CURRENT ADDRESS?

DOMINI- I GUESS ABOUT A YEAR.

FOGLEMAN- COULD YOU SCOOT FORWARD A LITTLE BIT. YOU'RE VERY SOFT-SPOKEN. OKAY. AND TRY TO SPEAK UP JUST A LITTLE BIT.

DOMINI- OKAY.

FOGLEMAN- ABOUT HOW LONG?

DOMINI- ABOUT, ALMOST A YEAR.

FOGLEMAN- ALRIGHT WHERE DID YOU LIVE BEFORE THAT?

DOMINI- BELVEDERE APARTMENTS.

FOGLEMAN- ALRIGHT AND BEFORE THAT WHERE DID YOU LIVE?

DOMINI- DANFEL.

FOGLEMAN- BEFORE THAT.

DOMINI- KIRWAN, ILLINOIS.

FOGLEMAN- ALRIGHT, WHO DID YOU LIVE WITH IN ILLINOIS?

DOMINI- MY DAD.

FOGLEMAN- ALRIGHT, WHO ELSE LIVED THERE?

DOMINI- HIS GIRLFRIEND.

FOGLEMAN- ALRIGHT, HOW LONG DID YOU LIVE WITH THEM?

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DOHLE- OH... ABOUT 2 YEARS.

FOGLEMAN- RIGHT. WHEN DID YOU MOVE BACK HOME ABOUT HOW OLD WERE YOU WHEN YOU MOVED BACK HOME?

DOHLE- WHEN I MOVED BACK HOME, I WAS 13.

FOGLEMAN- OKAY, WHY DID YOU MOVE BACK?

DOHLE- BECAUSE HE AND MY MOM HADN'T GET A LONG VERY WELL.

FOGLEMAN- DID YOU GAO ON HIS CHILDREN'S PRACTICE ANY WESTCHRAFT, OR...

DOHLE- NO SIR.

FOGLEMAN- ENGAGE IN ANY KIND OF CRIME...

DOHLE- NO SIR.

FOGLEMAN- TYPE BEHAVIOR, THAT DID NOT.

DOHLE- NO SIR.

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FOGLEMAN- OKAY. WHERE DID YOU LIVE BEFORE YOU LIVED IN ARKANSAS, CALIFORNIA?

DOHLE- BACK HOME, IS WEST MEMPHIS.

FOGLEMAN- WHERE WAS THAT? DO YOU REMEMBER?

DOHLE- ON DADDER.

FOGLEMAN- AND BEFORE THAT WHERE DID YOU LIVE?

DOHLE- I LIVED BACK IN CALIFORNIA, I WENT BACK AND FORTH FOR A WHILE.

FOGLEMAN- OKAY. HAD YOU EVER LIVED IN CALIFORNIA?

DOHLE- YES.

FOGLEMAN- WHEN DID YOU LIVE IN CALIFORNIA?

DOHLE- EVER SINCE I WAS 12 YEARS OLD AND THEN I MOVED HOME TO ARKANSAS.

FOGLEMAN- YOU LIVED FROM THE TIME YOU WERE 12...

DOHLE- NO. EVER SINCE I WAS 12...

FOGLEMAN- UP UNTIL YOU WERE 12?

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DOMINI- OH HUH.

FOGLEMAN- OKAY, SO FOR 12 YEARS YOU LIVED THERE?

DOMINI- YEAH.

FOGLEMAN- OKAY, AND WHO DID YOU LIVE WITH IN CALIFORNIA?

DOMINI- MY MOM AND MY DAD.

FOGLEMAN- YOUR MOM AND DAD TOGETHER?

DOMINI - OH HUH.

FOGLEMAN- OKAY, AND OH, IS THAT HAS IN ONTARIO, CALIFORNIA?

DOMINI- OH HUH.

FOGLEMAN- IS THAT ANYWHERE NEAR UPLAND, CALIFORNIA?

DOMINI- YEAH.

FOGLEMAN- OKAY, HOW CLOSE IS THAT TO UPLAND?

DOMINI- OH, IT'S ABOUT A MILE.

FOGLEMAN- IT'S REAL CLOSE.

DOMINI- IT'S REAL CLOSE.

FOGLEMAN- LIKE HARIOR AND WEST MEMPHIS OR SOMETHING LIKE THAT?

DOMINI- OH HUH.

FOGLEMAN- OKAY, OKAY OH, TELL ME ABOUT SOUND, THAT ORGANIZATION.

DOMINI- IT'S SOMETHING BY SOUND DOES JUST TO TAKE UP TIME.

FOGLEMAN- OKAY, WHAT DOES SOUND STAND FOR?

DOMINI- SECRET ORDER OF THE UNDEAD. IT'S LIKE A LITTLE CLUB.

FOGLEMAN- ALRIGHT, AND THEY PUBLISH A MAGAZINE THROUGH, RIGHT?

DOMINI- FLYERS.

FOGLEMAN- OKAY, AND WHAT ARE THE UNDEAD? ARE THOSE LIKE ZOMBIES?

DOMINI- NO, IT'S JUST LIKE VAMPIRES AND STUFF.

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FOGLEMAN- OKAY. AND HOW OLD IS YOUR COUSIN?

DOMINI- OH, SHE'S ABOUT, SHE'D BE ABOUT 23 OR 24 NOW.

FOGLEMAN- OKAY. DID YOU SPEND MUCH TIME WITH YOUR COUSIN WHEN YOU WERE OUT IN CALIFORNIA?

DOMINI- OH HUH.

FOGLEMAN- YOU DID. WHAT'S HER NAME?

DOMINI- TAMMY JO TEER. BUT WE JUST CALL HER T.J.

FOGLEMAN- OKAY. IS SHE SINGLE?

DOMINI- YEAH.

FOGLEMAN- HAVE ANY CHILDREN?

DOMINI- NO.

FOGLEMAN- HAS SHE EVER ENGAGED IN ANY WITCHCRAFT OR ANYTHING LIKE THAT?

DOMINI- SHE DID, SHE GOT WITH A GROUP OF PEOPLE THAT DID.

FOGLEMAN- WHEN WAS THAT? WHEN YOU WERE LEAVING OUT THERE.

DOMINI- YEAH.

FOGLEMAN- OKAY, DID THEY HAVE A NAME, OR...

DOMINI- NO, THEY WERE JUST...

FOGLEMAN- WHAT KIND OF WITCHCRAFT DID THEY PRACTICE?

DOMINI- THEY JUST BURNED CANDLES. THAT'S REALLY ABOUT IT.

FOGLEMAN- OKAY, WELL I HEAR THERE ARE DIFFERENT...WHAT DO THEY CALL THOSE THINGS, COVERS AND...

DOMINI- NO, THEY WEREN'T LIKE THAT.

FOGLEMAN- OKAY, WELL WHAT WERE THEY LIKE?

DOMINI- THEY WERE JUST A GROUP OF FRIENDS.

FOGLEMAN- OKAY, BUT THEY SAID THEY WERE PRACTICING WITCHCRAFT, THESE FRIENDS?

DOMINI- YEAH, PRETTY MUCH.

FOGLEMAN- DID YOU EVER SIT IN ON ANY OF THEIR MEETINGS?

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DOMINI- NO.

FOGLEMAN- WELL, HOW DO YOU KNOW WHAT THEY DID?

DOMINI- WELL, MY COUSIN TELLS ME STUFF.

FOGLEMAN- OKAY. DO YOU COULD... .

DOMINI- AND I KNOW HER FRIENDS. I KNOW WHO THEY WERE, YOU KNOW.

FOGLEMAN- OKAY. SO THEY DIDN'T CLAIM TO BE WITCHES OR ANYTHING ELSE?

DOMINI- NO.

FOGLEMAN- ALRIGHT, HOW LONG HAS DANIEL BEEN INVOLVED IN THIS WITCHKRAFT?

DOMINI- OH, ... BEFORE HE AND HIS WIFE WERE GOING OUT, HE WAS.

FOGLEMAN- OKAY. HOW OFTEN WOULD HE DO THINGS RELATED TO THAT?

DOMINI- LIKE HOW DO YOU MEAN?

FOGLEMAN- WELL, I HEAR DID THEY HAVE MEETINGS, OR... .

DOMINI- NOT WHEN HE WAS GOING WITH ME.

FOGLEMAN- OKAY. YOU DO KNOW THAT HE CLAIMS TODAY THAT HE'S A WICCA? OKAY. BUT HE DIDN'T HAVE ANY KIND OF MEETINGS OR ANYTHING.

DOMINI- NO.

FOGLEMAN- HE JUST... .

DOMINI- CLAIMED TO BE A WICCA.

FOGLEMAN- BUT HE DIDN'T MEET WITH OTHER MEMBERS WHILE HE WAS GOING WITH YOU?

DOMINI- THE ONLY PERSON HE MET WITH WHILE HE WAS GOING WITH ME WAS JASON.

FOGLEMAN- OKAY. AS FAR AS YOU KNOW?

DOMINI- OH NO.

FOGLEMAN- OKAY. WHAT ABOUT THESE OTHER CIRCULARS OF DANIEL'S. DO YOU KNOW ABOUT THEM?

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DOMINI- WHAT OTHER GIRLFRIENDS? I KNOW THIS GIRL THAT HE WAS GOING OUT WITH BEFORE HE WENT OUT WITH ME.

FOGLEMAN- WHO'S THAT?

DOMINI- DIANA HOLCOMB.

FOGLEMAN- OKAY. DO YOU KNOW ANYTHING ABOUT HER?

DOMINI- YEAH, SHE'S A KOOK.

FOGLEMAN- OKAY WHAT TELLS YOU SHE'S A KOOK?

DOMINI- SHE'S THE ONE THAT'S OBVIOUSLY INVOLVED IN WITCHCRAFT AND STUFF BECAUSE OF BY THE WAY SHE TALKS ABOUT IT.

FOGLEMAN- OH HUH. WHAT DOES SHE SAY?

DOMINI- JUST, SHE COME UP WITH OFF THE WALL STUFF.

FOGLEMAN- OKAY. WHAT KIND OF STUFF? JUST TO GIVE ME AN EXAMPLE.

DOMINI- JUST LIKE, HIM AND HER WOULD BE INVOLVED IN WITCHCRAFT AND STUFF. THEY WOULD GO OUT AND READ BOOKS AND CRAP ABOUT IT.

FOGLEMAN- OH HUH. OKAY, BUT YOU AND DANION NEVER DID THAT. YOU NEVER WENT TO AN ES POT?

DOMINI- I DON'T EVEN KNOW WHAT AN ES POT IS.

FOGLEMAN- YOU DON'T?

DOMINI- NO.

FOGLEMAN- WELL, DO YOU KNOW WHO JENNIFER IS?

DOMINI- LAST NAME, I KNOW A FEW JENNIFER'S.

FOGLEMAN- LIVES IN MEMPHIS.

DOMINI- OH...SHE...YEAH, I KNOW ABOUT HER. I DON'T KNOW HER PERSONALLY.

FOGLEMAN- OKAY WHAT'S HER RELATIONSHIP WITH DANION?

DOMINI- JASON WAS GOING OUT WITH A GIRL NAMED HOLLY AND HOLLY WAS JENNIFER'S BEST FRIEND.

FOGLEMAN- OH HUH. IS THAT WHAT DANION TOLD YOU?

DOMINI- YEAH.

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FOGLEMAN- OKAY.

DOMINI- I THINK I'VE SEEN HER SOMEWHERE ONE TIME.

FOGLEMAN- DO YOU KNOW HEATHLEY?

DOMINI- YEAH, THAT WAS ANOTHER ONE OF JASON'S GIRLFRIENDS.

FOGLEMAN- HOW MANY GIRLFRIENDS DOES JASON HAVE?

DOMINI- JASON STARTED GOING OUT WITH THE HOLLY GIRL, AND THEN HIM AND HER DIDN'T GET ALONG OR WHATEVER AND THEY BROKE UP AND THEN HE STARTED GOING OUT WITH HEATHLEY.

FOGLEMAN- OKAY. HOW ABOUT VICKI HUTCHINSON?

DOMINI- VICKI...

FOGLEMAN- OH HUH.

DOMINI- GOT SURFACEDLY RED HAIR?

FOGLEMAN- I DON'T KNOW WHAT COLOR HER HAIR SHE'S GOT.

DOMINI- WELL, I'VE HEARD ABOUT HER TOO. BUT I DON'T KNOW HER EITHER.

FOGLEMAN- OKAY, AND YOU DON'T KNOW ANYTHING ABOUT HER AND WHETHER GOING TO AN EX POT.

DOMINI- OH OH. THAT DIDN'T. I THINK, HE OBVIOUSLY SEEN HER ONE TIME, AND SHE COMES UP AND SHE SAYS THAT SHE SLEPT WITH HIM 6 TIMES, AND THAT'S AN IMPOSSIBLE NUMBER SHE CRAWLED IN BED WITH HE AND HIM, AND I KNOW SHE SURE DIDN'T.

FOGLEMAN- DID YOU EVER SLEEP TOGETHER EVERY NIGHT?

DOMINI- YEAH, EVERY NIGHT.

FOGLEMAN- HOW OLD ARE YOU?

DOMINI- 16

FOGLEMAN- OKAY. OKAY. HOW ABOUT HAS DANIEL HAD THE MENTARIAN OR HAS HEENY, THE TATTOO?

DOMINI- OH... SINCE AROUND SINCE LAST YEAR.

FOGLEMAN- IS THAT A TATTOO THAT HE DID HIMSELF, OR THAT HE HAS HAD SOMEONE DO IT?

DOMINI- HE DID IT HIMSELF.

FOGLEMAN- HOW DID HE DO IT, DO YOU KNOW HOW DID HE DO IT?

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DOMINI- YOU KNOW THE REACTOR HAVEN?

FOGLEMAN- OH HUH.

DOMINI- THE ONES YOU PRESS THE BUTTON AND IT COMES OUT.

FOGLEMAN- OH HUH.

DOMINI- ONE OF THOSE AND JUST THE ONE ON IT.

FOGLEMAN- HE PUT LUK ON THE KNIFE AND THEN KIND OF CARVED HIMSELF IN THE CHEST?

DOMINI- OH HUH.

FOGLEMAN- OKAY. HOW ABOUT THE E-V-I-L ON HIS KNUCKLES?

DOMINI- SAME WAY.

FOGLEMAN- SO HE DID THE SAME THING. HOW LONG HAS HE HAD THAT ONE?

DOMINI- ABOUT A LITTLE BIT AFTER HE GOT THE PENTAGRAM.

FOGLEMAN- DID HE DO THE ONES THAT YOU'VE GOT?

DOMINI- OH OH.

FOGLEMAN- HOW DID YOU HAVE THOSE DONE?

DOMINI- THIS ONE I DID MYSELF. THIS ONE ON MY LEG, I HAD A FRIEND OF MINE DO IT.

FOGLEMAN- OKAY. WAS IT DONE THE SAME WAY?

DOMINI- NO.

FOGLEMAN- OKAY. HOW WERE THEY DONE?

DOMINI- THIS ONE WAS DONE WITH A STICK PEN AND LUK AND THE OTHER ONE WAS DONE WITH A TATTOO GUN.

FOGLEMAN- OKAY. TELL ME ABOUT DANLON AND HIS CAT SKULLS. YOU DON'T KNOW ANYTHING ABOUT ANY CAT SKULLS. DON'T KNOW ANYTHING ABOUT HIM CARRYING THEM TO SCHOOL?

DOMINI- I HEARD THE OTHER KIDS SAY HE CARRIED THEM TO SCHOOL, BUT I JUST FIGURED THEY WERE JUST TRYING TO GIVE HIM A BAD REPUTATION OR SOMETHING.

FOGLEMAN- OKAY. YOU DIDN'T KNOW HE FOOLED AROUND WITH THOSE?

DOMINI- I KNEW HE HAD ONE, BUT HE KEPT IT IN HIS ROOM.

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FOGLEMAN- OKAY.

DOMINI- BUT HE FOUND IT ON THE HIGHWAY.

FOGLEMAN- OKAY. WERE YOU WITH HIM WHEN HE FOUND IT?

DOMINI- NO.

FOGLEMAN- THAT'S WHAT HE TOLD YOU.

DOMINI- YEAR.

FOGLEMAN- WHO IS MR. BARTOSNY DO YOU KNOW HIM? ALRIGHT, I WANT YOU TO THINK ABOUT, THINK BACK TO MAY THE 5TH, WEDNESDAY, MAY THE 5TH? I'LL TELL YOU WHAT, I'M GOING TO BACK UP. I'M GOING TO ASK YOU ABOUT SOMETHING ELSE FIRST. UM... YOU KNOW ANY OF THOSE GIRLS IN THOSE PICTURES 1, 2, 3?

DOMINI- NOPE.

FOGLEMAN- ALRIGHT. UM... HOW DID YOU GET TO THE HOSPITAL IN LITTLE ROCK ONE TIME, RIGHT. OKAY. UM, TELL ME ABOUT YOUR ... YOU ACCUSED YOUR MOTHER OF DRINKING BLOOD IN THE PAST.

DOMINI- NO.

FOGLEMAN- YOU DON'T REMEMBER THAT?

DOMINI- NO.

FOGLEMAN- YOU DON'T REMEMBER SAYING THAT?

DOMINI- NO.

FOGLEMAN- ALRIGHT, DO YOU KNOW ANYTHING ABOUT BLOOD DRINKING?

DOMINI- NO.

FOGLEMAN- YOU KNOW ANYTHING ABOUT DRAGON DRINKING BLOOD?

DOMINI- NO.

FOGLEMAN- YOU'VE NEVER SEEN HIM DO THAT?

DOMINI- NO.

FOGLEMAN- DO YOU REMEMBER DISCUSSING WITH MR. DRIVER ABOUT WITCHCRAFT AND VAMPIRISM?

DOMINI- HE ASKED ME ABOUT IT.

FOGLEMAN- WHAT DID YOU TELL HIM?

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DONINI- HE ASKED ME IF DANION WAS INVOLVED IN WITCHCRAFT.  
AND I SAID I REALLY HAVE NO IDEA. I HEAR HE WAS WHEN HE WAS  
GOING OUT WITH THAT ONE GIRL. AND HE SAID, WELL IS HE  
INVOLVED WITH VAMPIRES AND ALL THAT? I SAID, NO HE READS  
BOOKS ABOUT THEM, BUT THAT'S ALL I KNOW.

FUGLEMAN- BUT YOU DON'T REMEMBER IN MR. DRIVER'S PRESENCE  
TALKING ABOUT YOUR ROTTER DRINKING BLOOD.

DONINI- NO.

FUGLEMAN- YOU DON'T REMEMBER SAYING THAT. ALRIGHT, NOW I  
WANT YOU TO GO TO HAY THE 5TH. OKAY BECAUSE WE DO THAT, WE'RE  
GOING TO CHARGE TAPES. IT'S NOW 2:50 P.M., SEPTEMBER THE  
10TH.

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WE'RE BACK ON THE RECORD WITH DOMINI TEER. IT IS 2:51 P.M., FRIDAY, SEPTEMBER 10TH, 1993 WITH DOMINI TEER, HER MOTHER, BLANK, HER APPOINTED ATTORNEY, GERALD CULLEN IN PLACE OF HER FORMER ATTORREYS SCOTT DAVIDSON AND VORELL PRICE. MYSELF AND INSPECTOR GITCHELL. ALRIGHT, DOMINI, I WANT TO DIRECT YOUR ATTENTION TO MAY THE 5TH, WEDNESDAY, MAY THE 5TH. WHAT DID YOU DO THAT DAY?

DOMINI- UM, I GOT UP IN THE MORNING, AND...

FOGLEMAN- DID DANIGON SPEND THE NIGHT WITH YOU THAT NIGHT?

DOMINI- NO.

FOGLEMAN- DID HE NOT?

DOMINI-NO.

FOGLEMAN- OKAY.

DOMINI- HE WAS AT HOME. AND UM, A FRIEND OF HIS, KEN, HE DIDN'T LIVE AROUND HERE ANYMORE. BUT, HE SKIPPED SCHOOL, AND CAME OVER TO MY HOUSE, AND HE WAS ALL WAITING FOR HIM AND JASON, DANIGON AND JASON WERE COMING TO MY HOUSE.

FOGLEMAN- O.K. LET ME STOP YOU FOR A MINUTE. ABOUT WHAT TIME DID KEN COME OVER?

DOMINI- IT WAS ABOUT 7 IN THE MORNING.

FOGLEMAN- OK, WHAT IS KEN'S LAST NAME?

DOMINI- I DON'T KNOW.

FOGLEMAN- YOU DON'T KNOW HIS NAME?

DOMINI- UM UM.

FOGLEMAN- JUST KEN.

DOMINI- YEAH THAT'S WHAT WE ALL CALL HIM.

FOGLEMAN- WHEN WAS THE LAST TIME YOU SAW HIM?

DOMINI- UM, ABOUT, ABOUT ...DO YOU KNOW WHEN THE KIDS WAS KILLED?

FOGLEMAN- UM HUH.

DOMINI- ABOUT 2 DAYS AFTER THAT. AND THEN HE MOVED, AND WE NEVER...

FOGLEMAN- WHERE DID HE LIVE?

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DOMINI- HE LIVED IN LAKESHORE.

FOGLEMAN- OKAY, WHERE IN LAKESHORE?

DOMINI- I DON'T KNOW.

FOGLEMAN- YOU DON'T KNOW WHERE HE LIVED?

DOMINI- I DON'T KNOW.

FOGLEMAN- WHAT TRAILER OR ANYTHING? OKAY.

DOMINI- HE USED TO COME OVER TO JASON'S HOUSE.

FOGLEMAN- ALRIGHT, SO HE GOT TO YOUR HOUSE, OR THE TRAILER AT ABOUT 7 O'CLOCK IN THE MORNING?

DOMINI- UH HUH.

FOGLEMAN- OKAY, AND THEN WHAT DID YA'LL DO?

DOMINI- SAT AROUND AND WAITED FOR JASON AND DANION.

FOGLEMAN- AND DID THEY GET THERE?

DOMINI- DANION GOT THERE AROUND 1, AND THEN HE AND HIM AND KEN JUST KIND OF SAT AROUND THE HOUSE WAITING FOR JASON TO GET OUT OF SCHOOL.

FOGLEMAN- ALRIGHT, IS THIS SOMETHING THAT YA'LL HAD PLANNED BEFORE, ABOUT GETTING TOGETHER?

DOMINI- YEAH, WE HAD PLANNED IT A DAY BEFORE.

FOGLEMAN- ALRIGHT, WHAT HAD YA'LL PLANNED ON DOING?

DOMINI- WELL, WE PLANNED ON JASON SLEEPING SCHOOL, AND JUST US HANGING AROUND, LINE, AT THE HALL AND STUFF.

FOGLEMAN- UH HUH.

DOMINI- AND JASON WENT TO SCHOOL THAT DAY, SO, WE HAD TO WAIT FOR HIM.

FOGLEMAN- OKAY, AND, SO YOU SAT AROUND WAITING FOR JASON AND DANION AND THEN DANION CAME ABOUT 1 O'CLOCK.

DOMINI- UH HUH.

FOGLEMAN- ALRIGHT, AND THEN AFTER HE CAME, WHAT DID YA'LL DO?

DOMINI- SAT AROUND AND WAITED FOR JASON.

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FOGLEMAN- ALRIGHT. DID JASON COME?

DOMINI- OH HUH. WHEN HE GOT OUT OF SCHOOL THAT DAY.

FOGLEMAN- WHAT TIME DID HE GET THERE?

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DOMINI- UM. IT WAS ABOUT 3:25.

FOGLEMAN- WHAT TIME DOES SCHOOL LET OUT?

DOMINI- 3:15.

FOGLEMAN- ALRIGHT. SO HE GOT THERE ABOUT 3:25. AND AFTER HE GOT THERE. WHAT DID YA'LL DO?

DOMINI- WE WALKED BACK TO JASON'S HOUSE, AND THEN JASON...

FOGLEMAN- LET ME STOP YOU A MINUTE. DO YOU KNOW WHETHER WHEN HE GOT OFF THE BUS. WHETHER HE CAME STRAIGHT TO YOUR HOUSE, OR WHETHER HE WENT ON TO HIS HOUSE?

DOMINI- HE WENT HOME.

FOGLEMAN- AND THEN HE CAME TO YOUR HOUSE?

DOMINI- OH HUH.

FOGLEMAN- OKAY. AND THEN AFTER HE GOT TO YOUR HOUSE, YA'LL ALL WENT TO JASON'S HOUSE.

DOMINI- YEAH, WE ALL WENT BACK TO HIS HOUSE.

FOGLEMAN- ALRIGHT. AND WHO WAS AT JASON'S HOUSE WHEN YOU GOT THERE?

DOMINI- UM... HIS LITTLE BROTHERS.

FOGLEMAN- WHAT ARE THERE NAMES?

DOMINI- MATTHEW AND TERRY. AND HE CALLED HIS MOM. AND HIS MOM TOLD HIM HE NEEDED TO GO OVER TO HIS UNCLE'S AND MOW THE LAWN.

FOGLEMAN- OKAY.

DOMINI- SO. WE ALL GOT UP AND WE ALL WALKED OVER TO HIS UNCLE'S.

FOGLEMAN- OKAY. ABOUT WHAT TIME DID YA'LL GET TO HIS UNCLE'S?

DOMINI- UM... 4 O'CLOCK (INAUDIBLE) SOMETHING LIKE THAT.

FOGLEMAN- 4 OR 4:15, SOMETHING LIKE THAT.

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DOMINI- YEAH. IT WAS AROUND THERE.

FOGLEMAN- AND HOW DID YA'LL GET THERE?

DOMINI- WE WALKED.

FOGLEMAN- WHICH WAY DID YA'LL WALK?

DOMINI- WE WALKED. YOU KNOW ON THE HIGHWAY, NOT THE SERVICE ROAD, BUT THE HIGHWAY.

FOGLEMAN- THE INTERSTATE?

DOMINI- YEAH. WE WALKED OVER THE INTERSTATE, THROUGH WAL-MART PARKING LOT. AND YOU KNOW AROUND THE SIDE RIGHT HERE?

FOGLEMAN- OH HUH.

DOMINI- ... OF THE BUILDING. WE WALKED AROUND THE SIDE OF THE BUILDING TOWARDS THE BACK...

FOGLEMAN- THIS BUILDING RIGHT HERE?

DOMINI- YEAH. THIS BUILDING RIGHT HERE.

FOGLEMAN- DEAY.

DOMINI- AND STRAIGHT DOWN TO HIS UNCLE'S HOUSE ON THOSE BACK STREETS.

FOGLEMAN- DEAY.

SITCHELL- HOW LONG DID IT TAKE YOU TO REEN THAT WALK?

DOMINI- IT DIDN'T TAKE US VERY LONG, ABOUT 10 OR 15 MINUTES.

FOGLEMAN- ALRIGHT AFTER YOU GOT ... YOU GOT THERE ABOUT 9 OR 4:15, THEN WHAT DID YOU DO?

DOMINI- ME AND DANION AND KEN, AND JASON MOWED THE LAWN, AND WE ALL SAT AND WE WATCHED HIM FOR A LITTLE WHILE.

FOGLEMAN- DID YA'LL ALL MOW THE LAWN SOME?

DOMINI- NO. JUST JASON MOWED THE LAWN. WE ALL WATCHED.

FOGLEMAN- BUT YA'LL WATCHED.

DOMINI- YEAH.

FOGLEMAN- ALRIGHT. THEN WHAT HAPPENED?

DOMINI- WE SAT THERE FOR A WHILE WATCHING HIM MOW THE LAWN. AND THEN ME AND DANION GOT UP AND WALKED TO THE LAUNDRYMAT...

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FOGLEMAN- LET ME STOP YOU A MINUTE BEFORE WE GET TO THE LAUNDRYHAT? UM...DID DANION, EXCUSE ME, DID JASON GET THROUGH MOWING?

DOMINI- UH UH.

FOGLEMAN- DID YA'LL SEE ANYBODY THERE AT THE HOUSE? HIS UNCLE, OR?

DOMINI- HIS UNCLE.

FOGLEMAN- YOU DID SEE HIM? OKAY, DID YA'LL TALK TO HIM? BUT, YOU DID SEE HIM.

DOMINI- UH HUH.

FOGLEMAN- DID HE COME OUTSIDE?

DOMINI- YEAH.

FOGLEMAN- WHERE DID YA'LL SIT AND WATCH JASON?

DOMINI- ON THE BACK PORCH.

FOGLEMAN- AND WHERE WAS THE UNCLE?

DOMINI- GETTING THE LAWNMOWER OUT FOR JASON.

FOGLEMAN- AND WHERE WAS THE LAWNMOWER?

DOMINI- IN THE SHED.

FOGLEMAN-AND THE SHED IS IN THE BACK?

DOMINI- YEAH.

FOGLEMAN- OKAY, AND YA'LL WERE THERE ON THE BACK PORCH?

DOMINI- UH HUH.

FOGLEMAN- OKAY, AND HOW MUCH DID HE MOW BEFORE YA'LL GOT UP?

DOMINI- WELL, HE MOWED IN A CIRCLE AROUND THE YARD.

FOGLEMAN- UH HUH.

DOMINI- HE MOWED ABOUT LIKE, THREE CIRCLES, AND THEN HE ALL GOT UP AND LEFT.

FOGLEMAN- OK, YOU...

DOMINI- HE AND DANION.

FOGLEMAN- WHAT ABOUT KENT?

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DOMINI- HE STAYED THERE.

FOGLEMAN- WHERE DID JASON GO?

DOMINI- HE MOWED THE YARD.

FOGLEMAN- WHY DID YA'LL GET UP?

DOMINI- DANIGAN SAID HE HAD TO CALL HIS MOM.

FOGLEMAN- OKAY, WHY DID HE HAVE TO CALL HIS MOM?

DOMINI- TO COME PICK HIM UP. I DON'T KNOW, HE JUST CALLED HIS MOM.

FOGLEMAN- OKAY, WHAT DID YA'LL TALK ABOUT ON THE WAY FROM LAKE SHORE TO JASON'S UNCLE'S HOUSE?

DOMINI- ABOUT WHAT HAPPENED TO JASON IN SCHOOL, AND GOOFED OFF.

FOGLEMAN- NOTHING IN PARTICULAR.

DOMINI- NO.

FOGLEMAN- DID YA'LL TALK ABOUT ANY PLANS ABOUT WHAT YA'LL WERE GOING TO DO THAT NIGHT OR THE NEXT DAY?

DOMINI- NO.

FOGLEMAN- SO, YA'LL HAD PLANNED FOR THAT DAY, BUT YOU DIDN'T TALK ABOUT ANY PLANS FOR THE NEXT DAY, OR ANYTHING.

DOMINI- NO.

FOGLEMAN- AND YOU WENT TO THE LAUNDRYMAT.

DOMINI- UH HUH.

FOGLEMAN- AND WHAT DID YOU DO AT THE LAUNDRYMAT?

DOMINI- CALLED HIS MOM.

FOGLEMAN- OKAY, AND ABOUT WHAT TIME WAS THAT?

DOMINI- UM...PROBABLY ABOUT 5 OR 5:30, SOMETHING LIKE THAT.

FOGLEMAN- OKAY, THEN WHO CAME TO GET HIM?

DOMINI- HIS MOM AND HIS SISTER.

FOGLEMAN- HIS MOM AND HIS SISTER?

DOMINI- UH HUH.

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FOGLEMAN- ANYBODY ELSE?

DOMINI- I THINK HIS DAD WAS THERE TOO.

FOGLEMAN- YOU DON'T REMEMBER?

DOMINI- YEAH, HIS DAD WAS THERE.

FOGLEMAN- ARE YOU SURE?

DOMINI- OH HUH. 'CAUSE HE WAS DRIVING THE CAR.

FOGLEMAN- ALRIGHT AND THEY TICKED YOU USE?

DOMINI- OH HUH.

FOGLEMAN- ALRIGHT, AND THEN WHAT HAPPENED?

DOMINI- THEY TOOK ME HOME.

FOGLEMAN- THEY TOOK YOU HOME?

DOMINI- OH HUH.

FOGLEMAN- ABOUT WHAT TIME DID YOU GET HOME?

DOMINI- OH, AROUND, LIKE 8-45, 9:00, IN BETWEEN THERE.

FOGLEMAN- DO YOU REMEMBER WHAT WAS ON T.V. WHEN YOU CAME IN?

DOMINI- I DIDN'T LOOK AT THE T.V., I WALKED THE DOG.

FOGLEMAN- OKAY, YOU JUST WALKED IN AND WALKED THE DOG?

DOMINI- YEAH, I JUST CAME IN AND I SAT AT THE KITCHEN TABLE JUST FOR A COUPLE OF MINUTES, AND THEN I GOT BORED, AND THEN I GOT UP, GOT THE DOG'S LEASH AND WALKED TO THE STORE WITH THE DOG.

FOGLEMAN- HOW LONG DID YOU WALK THE DOG?

DOMINI- OH, PROBABLY ABOUT 10 MINUTES.

FOGLEMAN- OKAY. AND THEN YOU CAME BACK IN?

DOMINI- OH HUH.

FOGLEMAN- DO YOU REMEMBER WHAT WAS ON TV WHEN YOU CAME BACK IN AFTER WALKING THE DOG FOR ABOUT 10 MINUTES?

DOMINI- OH HUH.

FOGLEMAN- WHAT?

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DOMINI- CAUSE, TIMETRACKS WAS FIXIN TO COME ON.

FOGLEMAN- OKAY.

DOMINI- AND I TOOK A SHOWER, CAUSE MOM HAD TOLD ME WHAT HAPPENED WHILE TIMETRACKS ENDED. TIL THE END OF TIMETRACKS SHE HAD TOLD ME WHAT HAPPENED.

FOGLEMAN- OKAY, BUT IT WAS JUST COMING ON WHEN YOU CAME IN?

DOMINI- OH HUH.

FOGLEMAN- BUT, YOU DIDN'T WATCH IT? YOU TOOK A SHOWER, ALRIGHT, THEN WHAT HAPPENED?

DOMINI- THEN I GOT OUT OF THE SHOWER, AND I LAID IN BED FOR A WHILE, AND DAMION CALLED, AND HE AN HIM BICKERED BACK AND FORTH FOR ALMOST AN HOUR, AND THEN SHE MADE HE GET OFF THE PHONE.

FOGLEMAN- WHAT TIME DID HE CALL?

DOMINI- ABOUT 10.

FOGLEMAN- WHAT WERE YA'LL BICKERING ABOUT?

DOMINI- JASON, YOU KNOW, JASON'S GIRLFRIEND HOLLY, CALLED OH, KEPT CALLING DAMION, CRYING ABOUT JASON, AND I DIDN'T LIKE HER CALLING DAMION CRYING TO HIM ABOUT JASON.

FOGLEMAN- OKAY, I THOUGHT THAT JASON AND HOLLY HAD ALREADY BROKEN UP AND HE WAS DATING HEATHER.

DOMINI- OH OH. HE'D... NO. HE WAS GOING OUT WITH HOLLY, AND JUST A LITTLE BIT BEFORE YA'LL ARRESTED HIM, HE HAD STARTED GOING OUT WITH HEATHER. BUT, HIM AND HOLLY WERE STILL...THEY WEREN'T GOING OUT, BUT THEY WERE JUST LIKE, SEEING EACH OTHER.

FOGLEMAN- I SEE.

DOMINI- CAUSE SHE WAS SUPPOSED TO BE BREAKING UP WITH SOME OTHER BOYFRIEND WHILE THEY WAS TRYING TO GO OUT.

FOGLEMAN- OH HUH. OKAY. AND YA'LL ARGUED ABOUT THAT?

DOMINI- OH HUH.

FOGLEMAN- OKAY, WHY?

DOMINI- BECAUSE SHE WAS CRYING TO HIM, AND ...AND HE WAS JUST LIKE, ALL POOR HOLLY, AND WHEN I COME CRYING TO HIM, IT WASN'T ALL POOR HOLLY. IT WAS, HE WOULD GET MAD BECAUSE I WAS HAVING GOOD SHINGS ALL THE TIME, AND I WOULD JUST (INAUDIBLE)

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AND HE GOT MAD ABOUT IT, BECAUSE HE DIDN'T UNDERSTAND. WE KEPT TRYING TO EXPLAIN TO HIM THAT I WAS (INADVISABLE) TO DO THAT.

FOGLEMAN- UH HUH.

DOMINI- AND I GOT MAD BECAUSE HE WAS SYMPATHIZING WITH HOLLY, AND I DIDN'T WANT HOLLY CALLING HIM AT ALL.

FOGLEMAN- OKAY, SO YA'LL ARGUED..

DOMINI- YEAH.

FOGLEMAN- DID YOU ARGUE THAT AFTERNOON?

DOMINI- UH UH.

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FOGLEMAN- YOU DIDN'T ARGUE THAT AFTERNOON?

GITCHELL- HOW COME YOU WEREN'T TOGETHER THAT AFTERNOON? YOU'RE USUALLY TOGETHER ALL THE TIME.

DOMINI- HE WAS JUST AT HOME. HE HAD TO GO TO THE DOCTOR THAT MORNING.

FOGLEMAN- DID HE SPEND THE NIGHT THAT NIGHT AT YOUR HOUSE?

DOMINI- THAT WEDNESDAY

FOGLEMAN- UH HUH. HE DID?

DOMINI- NO. HE DIDN'T SPEND THE NIGHT THAT WEDNESDAY.

FOGLEMAN- HOW BOUT TUESDAY?

DOMINI- NOW, TUESDAY, YES. THURSDAY. THURSDAY HE SPENT THE NIGHT BECAUSE HE GOT IN ANOTHER ARGUMENT BECAUSE OF THE SAME PEOPLE AND I WANTED HIM TO SPEND THE NIGHT WITH ME THAT NIGHT CAUSE....

FOGLEMAN- CAUSE YOU WERE MAD AT HIM?

DOMINI- NO, WE WEREN'T MAD AT EACH OTHER. WE GOT BACK...WE WERE OKAY AFTER THAT. BUT I STILL WANTED HIM TO STAY WITH ME.

FOGLEMAN- OKAY, SO THURSDAY NIGHT HE SPENT THE NIGHT WITH YOU?

DOMINI- UH HUH.

FOGLEMAN- NOW WHAT ABOUT TUESDAY NIGHT, I WASN'T CLEAR ON THAT. I THOUGHT YOU SAID HE DID, AND THEN I THOUGHT YOU SAID HE DIDN'T AND SO I WASN'T CLEAR, ON TUESDAY NIGHT.

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DOMINI- ON TUESDAY? UH...YEAH, HE DID SPEND THE NIGHT TUESDAY, CAUSE HE WENT HOME WEDNESDAY MORNING.

FOGLEMAN- OKAY.

DOMINI- CAUSE HE HAD A DOCTOR'S APPOINTMENT.

FOGLEMAN-OKAY. WHAT TIME DID HE GO HOME TUESDAY MORNING? DO YOU REMEMBER?

DOMINI- IT WAS EARLY. UH... BEFORE 12 I KNOW THAT.

FOGLEMAN- OKAY, HOW ABOUT...LET'S SEE, THURSDAY NIGHT HE SPENT THE NIGHT WITH YOU, HOW ABOUT FRIDAY?

DOMINI- UH UH.

FOGLEMAN- HE DIDN'T SPEND THE NIGHT FRIDAY, DID YOU SEE HIM FRIDAY? BESIDES FRIDAY MORNING WHEN YOU WOKE UP.

DOMINI- I SPENT THE NIGHT WITH HIM FRIDAY.

FOGLEMAN- OH, YOU SPENT THE NIGHT WITH HIM FRIDAY NIGHT.

DOMINI- UH HUH.

FOGLEMAN- OKAY. ALRIGHT. NOW, DO ... THERE IS A PERSON WHO SAYS THAT THEY SAW YOU AND DAHLON WALKING ON THE SERVICE ROAD THAT NIGHT.

DOMINI- HE NEVER WALKED ON THE SERVICE ROAD, EVER.

FOGLEMAN- YA'LL WALK ON THE INTERSTATE?

DOMINI- YEAH.

FOGLEMAN- ALRIGHT, YOU WERE NOT WITH HIM, HAS HE TOLD YOU THAT HE WAS WITH JASON WALKING AROUND THAT NIGHT?

DOMINI- I DON'T KNOW. NUMBER ONE HE DOESN'T WALK ON THE SERVICE ROAD, WHETHER HE'S WITH JASON OR HE'S WITH ME. HE JUST DOESN'T WALK ON THE SERVICE ROAD BECAUSE IT'S QUICKER TO GO OVER THE INTERSTATE.

FOGLEMAN- OKAY. DID HE TELL YOU THAT HE WENT WALKING WITH JASON ANYWHERE THAT NIGHT?

[DOMINI PAUSES]

FOGLEMAN- YOU QUIT LOOKING AT ME. HE DIDN'T TELL YOU THAT.

DOMINI- NO.

*amb*  
WEST MEMPHIS POLICE  
confidential  
COPY TO PROSECUTOR  
66 28 93 004395

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# **EXHIBIT K**

From The Commercial Appeal

**MAY 1993**

THE COMMERCIAL APPEAL

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Memo: Different version, First A1

CORRECTION from May 8, 1993: Pam Hobbs is the mother of Steve Branch, one of three West Memphis boys found murdered Thursday. A story Friday incorrectly identified her.

**MUTILATED BODIES OF 3 BOYS FOUND IN BAYOU  
HUNT ON FOR SUSPECT IN W. MEMPHIS**

By Richard Kelley The Commercial Appeal

Staff reporter Lloyd Holbeck and The Associated Press contributed to this story.

Three 8-year-old boys were found slain Thursday, their bodies submerged in a drainage ditch. West Memphis police would not comment on the cause of death, but an Arkansas State Police broadcast Thursday night said West Memphis police were investigating the abduction and sexual mutilation of three boys.

[other version reads:

Police are searching for whoever killed three 8-year-old schoolmates whose submerged bodies were found Thursday afternoon in Ten-Mile Bayou.

An Arkansas State Police broadcast alerting regional authorities to the slayings said the hands of the boys had been tied behind their backs and that they had been sexually mutilated.]

Neighbors last saw Weaver Elementary School second-graders Steve Branch, Christopher Byers and Michael Moore riding bicycles between 5:15 and 6 p.m. Wednesday. The search by police, parents and neighbors began at 7:30 p.m.

"We do have three homicides," said Insp. Gary Gitchell of the West Memphis Police Department. "I won't comment on the crime scene or what we found."

Mark Byers, father of Christopher, characterized whoever killed his son as an "animal."

"I hope God shows a little mercy on his soul, because I sure wouldn't," he said.

The bodies were to be sent to Little Rock for autopsies by the state medical examiner.

Christopher Byers lived at 1400 E. Barton, next door to Michael Moore at 1398 E. Barton. Steve Branch's family lives nearby at 1601 E. McAuley.

Gitchell said the bodies were found at about 1:30 p.m. within 10 feet of each other in Ten Mile Bayou, the city's main drainage ditch.

The ditch was drained and the bodies retrieved around 4 p.m.

From The Commercial Appeal

Authorities said they drained the ditch to search for additional evidence. Police were also searching a culvert where bicycle tracks and small sneaker prints were found.

The culvert, which connects to the drainage ditch, runs under Interstate 40 near a truck wash. The ditch was a few hundred yards north of where the children were last seen, and less than a half-mile from the children's homes.

They were behind the Mayfair Apartments in a wooded, undeveloped area known to residents as Robin Hood Park.

"It's several little ditches or streams that run through the area, from a trickle to two to three feet of water," Gitchell said.

"One of my officers found a tennis shoe and, being inquisitive, he just jumped in the water and felt one of them."

The boys were last seen cutting through the yard of a resident who lived on Goodwin Avenue, just south of the brush-choked bayou.

Debra O'Tinger, 18, said three boys on two bikes cut through her yard.

"That's where they went in at," she said Thursday. "I told them to get out of my yard."

The bicycles were found 50 yards from the bodies, Gitchell said.

The neighborhood of neat family homes is bounded by apartment buildings to the west, and the bayou to the north.

A police barrier was set up at the intersection of W. E. Catt Street and McAuley Drive West, which ends in a small cul-de-sac beyond which the bodies were found.

About midafternoon, anxious parents were awaiting official word as neighbors massed at the police barricade on McAuley Drive after hearing one body had been found.

Pam Hobbs, mother of Michael Moore, collapsed when authorities told her that her son's body also had been found.

"Oh Lord!" she said, collapsing to the asphalt before being raised into the arms of friends and family. Neighbor Bo Hamrick said he and friends had helped search the area on three-wheelers since about 7 a.m. Thursday.

"It's nothing but woods, woods and trails - a few trails just wide enough to get a three-wheeler through," he said. "I thought, if we get our three-wheelers out, they'll hear us, if they're back there hiding. They always are."

Gitchell, the lead investigator, said he could not confirm whether a story from a neighbor who reported seeing two men with some children in the area was accurate.

"We've got our work cut out for us," he said, declining to say if authorities had any suspects.

The state police broadcast made no mention of suspects, but it asked any police agencies investigating similar crimes to notify West Memphis police.

West Memphis police asked anyone with information about the murders to call Crime Stoppers at (501) 732-4444.

The elder Byers said he was concerned that the Crittenden County Sheriff's Department did not join the search until Thursday morning despite his repeated requests.

It was not their jurisdiction, he said he was told by a dispatcher.

"If they had brought them out there last night, we would have had a chance of finding those boys alive," he said before praising the all-night search effort by West Memphis Police Department officers.

"They could have used some help; hell, yes, they could have used some help," he said.

Sheriff Richard Busby said Thursday night he talked with the dispatcher and sergeant on duty the previous night and said there was miscommunication between his officers and Byers.

The officers said Byers wanted to know if "this was the right place to call to get a report made out," the

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sheriff said. "They said no, you need to call the city police department."

Busby, who said he knew Byers and considered him a friend, said "if anyone had called us last night, we'd have been glad to have helped them. We didn't get a call from West Memphis (police) or anyone." West Memphis's most recent triple murder occurred in 1985, when Ronald Ward, then 15, killed two elderly sisters and their 12-year-old great-grandnephew. Initially sentenced to death, Ward received a second trial and got life in prison.

There have been three other homicides in West Memphis this year, two of which authorities said were justifiable. In 1992, there were 10 homicides in the city.

Illustration: photo (5): map - Staff

Steve Branch, Christopher Byers, Michael Moore

CAPTION: By Dave Darnell

(Color) West Memphis Patrolman G. C. Masengale comforts Mark Byers, father of 8-year-old Christopher Byers, one of three boys found slain Thursday in Ten Mile Bayou in West Memphis.

Insp. Gary Gitchell (second from right), of the West Memphis Police Department, is heading the investigation into the three deaths. Police did not indicate whether they had identified suspects.

# **EXHIBIT L**

From Crittenden County Evening Times

West Memphis Evening Times, May 7th, lead story

I transcribed this from what is posted. It seemed to me to have some info not available from other sources.

Murdered boys found in bayou.

Three 8-year-olds' bound bodies found a half-mile from homes

West Memphis reacted in horror this morning as news of the murder of three 8-year-old boys whose bound bodies were found in a drainage ditch became known.

Christopher Byers, Michael Moore and Steve Edward Branch were last seen together riding bicycles north on North 14th Street toward Goodwin Street about 6 p.m. Wednesday. Bodies of the youths, all neighbors and second grade students at Weaver Elementary School were pulled from 10-Mile Bayou diversion ditch northwest of the intersection of Seventh and Barton streets about 4 p.m. Thursday. The site is only a few hundred yards from where they were last seen.

Police have no suspects in the murders, Gary Gitchell, public information officer for the West Memphis Police Department, said.

The wooded area along both sides of the drainage ditch, between Holiday Gardens subdivision and the south service road of Interstates 40 and 55, was a favorite haunt of youngsters in the area who nicknamed it "Robin Hood Hill" and criss-crossed it with bike trails. It had been the focal point of a search for the youngsters that started Wednesday evening and continued throughout the night and until the bodies were found early Thursday afternoon.

"I was out looking until 4:30 a.m. I walked within 10 or 15 feet of where the bodies were found and I didn't see them," Mark Byers, father of one of the victims said.

Police were called to an area off the end of West McAuley and W.E. Catt streets at 1:30 pm Thursday. When the call came in, searchers had found a white tennis shoe on the side of the bayou. A few minutes later, a pair of dark shoes was found in the bayou.

Shortly afterward one body was found. The other two bodies were found a short distance away.

Once the police had cordoned off the area, the families of the three children came to the scene and spoke with police. Pam Hobbs, the mother of Steve Branch, fainted when she heard the news. She was revived a few moments later and began screaming and crying.

She was carried by family members to a nearby vehicle.

Gitchell said the three boys' bodies were (page 2) found in the same location, all submerged in the water. Their two bicycles were found about 50 yards away, also under water. When a detective found the tennis shoe on the bank of the ditch, Gitchell said, he went into the water, where he found the body of the first youth.

Gitchell would not comment on published reports that the boys' bodies were mutilated, but he said that they were bound hand and foot.

"Not all of that report was accurate. I've refused to comment on what part was inaccurate, for investigative purposes," Gitchell said. "I will confirm that they were bound." He said police were hoping for word from the state medical examiner's office by late this afternoon as to the cause of the youth's death.

Byers, father of Christopher Byers, said Gitchell told him one youth had been hit above the eye, a second's jaw was injured, and the third "was worse than that." Asked how officers concluded that the

From Crittenden County Evening Times

three deaths were homicide, Gitchell said, "It was plain to an investigator's eye.

"It was homicide. They did not slip and fall (off a pipe that stretched across the bayou, often used as a bridge)." He described how the body of one of the boys was found by a detective.

"one of my men noticed a shoe. Being inquisitive, he jumped in the water and started feeling around," Gitchell explained. "People have been walking though (sic) here all day. We were lucky he (the officer) saw one shoe."

He said the three bodies were about 10 feet apart and that the two bicycles were found farther up the bayou.

Officers and volunteers had covered the area where the bodies were found several times before discovering the bodies in the water, Gitchell said. "That area where the boys were found was saturated hard and heavy that morning and even the evening before," he said. He estimated there were 50 searchers, including police, volunteers from the Crittenden County Search and Rescue Squad and the boys neighborhood.

A Memphis police helicopter searched the area from the air, but had to go back to its base at 11 a.m. The chopper made several sweeps along the interstate and over the wooded area, but nothing was seen from the air. Robin Hood is a densed (sic) wooded area with heavy undergrowth.

A 30-yard section of the bayou was dammed off with sandbags and the water pumped out of it, in an attempt to preserve any evidence that might be beneath the water. Gitchell would not say whether anything was found that would be helpful in the investigation.

All 12 of the police department's detectives are working on the investigation, Gitchell said, and will be working seven days a week with time off only to eat and sleep. He emphasized the importance of anyone who may have any information about the murders calling police. More than 250 calls had been received by early this morning, he said, and each one of those tips will be checked out.

Callers may contact Crittenden County Crimestoppers at 732-xxxx with any information. All calls are confidential and tipsters may remain anonymous. Crimestoppers offered a reward of up to \$2,000 for tips leading to arrest and conviction.

"If the telephone is busy, please don't give up," Gitchell said. "We're getting a lot of calls. But we want to talk with everyone who may possibly have any information about this."

Editor's note: Staff members Kay Brockwell, Leonice Watkins, and Kathleen Boyd contributed to this story.

Caption, photo: Gary Gitchell tells Mark Byers, one victim's father, the news of deaths.