

EXHIBIT II

MIAMI-DADE COUNTY, FLORIDA



MEDICAL EXAMINER DEPARTMENT
NUMBER ONE ON BOB HOPE ROAD
MIAMI, FLORIDA 33136-1133
(305) 545-2400

January 11, 2007

Donald M. Horgan
523 Octavia Street
San Francisco, California 94102

RE: State of Arkansas vs. Echols, Baldwin & Misskelley

Dear Mr. Horgan:

HISTORY

I was originally contacted by Ms. Lorri Davis via telephone on or about November 14, 2004. Subsequently, I received numerous e-mails regarding aquatic animals, a disc of wildlife in the area and a snapping turtle skull. Additionally, I received a disc entitled Echols containing over 1500 photographs, complete crime scene and evidence. On November 17th and December 19th I received letters from yourself including but not limited to:

- 1) Background Material and information on the case
- 2) Autopsy reports of all three victims (329-93-Michael Moore, 330-93-Steve Edward Branch and 331-93-Chris Beyers)
- 3) Trial testimony of Forensic Pathologist Dr. Peretti
- 4) Trial testimony of Dr. Duke Jennings
- 5) Excerpts of Prosecutions closing arguments
- 6) Dr. Werner Spitz four page report
- 7) CD containing photographs referred to in Dr. Spitz report
- 8) A DVD entitled "Paradise Lost"
- 9) Legal opinions issued by the Arkansas Supreme Court

From November 14, 2006 through January 10, 2007 all the CD's, e-mails, reports, photographs, court records, court testimony, Supreme Court opinion and DVD were reviewed and abstracted. My abstracts are enclosed with this report. To date I have spent a total of 19.75 hours of time and out of pocket costs of \$18.00 for preparation of photographs and disc (CD).

OPINION

The Scene and Circumstances of the event:

From the CD, reports, photographs, court testimony and autopsy reports it can be concluded that the three eight year old white males were murdered, dumped in a ravine with a narrow canal/drainage ditch at the bottom. The water appeared to be from ankle deep to knee deep or higher in the area where the bodies were found. The bodies were alive at the time they were placed into the water. The cause of death was drowning, the manner of death was homicide. Although near an expressway, the heavily wooded and deep ravine is inhabited with animals including but not limited to insects, aquatic animals and mammals such as dogs, coyotes, cats, fox, etc. It is estimated that the bodies were in the water for approximately 17 hours before they were discovered and removed. At the time of removal there had been mutilation to the genital area on Chris Beyers and mutilation to the left side of the face, jaw and neck of Steve Branch. There was no blood or bits of tissue found at the scene.

OPINION

Medical Case#330-93 Steve Edward Branch

From my evaluation I selected four photographs marked 1B-4B and are enclosed with this report. These photographs are from the CD "Echols" that included 1500 more or less images. The CD is all crime scene and evidence. For orientation purposes

Photograph #1B Image #336
Photograph #2B Image #185,
Photograph #3B Image #167 and #474
Photograph #4B Image #1512.

Photographs 1B, 3B and 4B all depict injuries to the left side of the face of Steve Branch. These V shaped cuts in the cheek, the tearing of the flesh and mutilation observed in these photographs is consistent with animal activity and more likely than not in my opinion with an aquatic creature. The mutilation appears to be postmortem. Photograph #3 B shows intra oral injury to the mucco buccal fold and to the upper and lower lip area. These injuries in my opinion are perimortem. Photograph #2 B shows the right side of Steve Branch's face. There are scratches and gauges in this area consistent with animal activity.

Photograph #4 B is an extremely close up with the words "potential bite mark evidence" written on the photograph. This is consistent with my opinion that this is postmortem bite mark activity left by animals more likely than not, turtle activity or some other aquatic animal. None of the marks on the face of Steve Branch in my opinion are consistent with having been caused by a serrated knife.

OPINION

Medical Case#331-93 Chris Beyers

The mutilation suffered by Chris Beyers was documented photographically. My evaluation is directed to the inner aspect of the upper legs (right and left), the groin and buttocks area. Some of the photographs I used for my evaluation were contained on the CD marked "Echols-all crime scene and evidence". The photographs that were used are as follows:

Photograph #1C- Image #258
Photograph #2C- Image #243
Photograph #3C- Image #002/252
Photograph #4C- Image #243
Photograph #5C- Image #295
Photograph #6C- Image #1212
Photograph #7C- Image #1211
Photograph #8C- Image #1207
Photograph #9C- Image #284
Photograph #10C-Image #285

Photographs 1C, 2C, 4C and 10C depict overall and close up of the pubic mutilation, scrapes and scratches to the inner aspect of the both legs, all around the pubic area. The genitals are missing. From the photographs, the mutilation appears to be post mortem activity especially to the inner aspect of the left leg. This injury is consistent with animal activity. Especially when the overall photograph 1C is compared with the close up. None of these marks are consistent with a knife when all of the photographic evidence is taken into consideration.

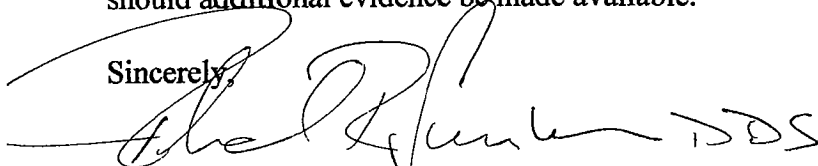
Photographs 7C, 8C and 9C depict the groin area and inner aspect of the legs photographed from the feet towards the head. The victim is on his back. There is perimortem and postmortem animal activity. None of these linear abrasions in my opinion are made by the serrations from the knife-Exhibit 27. The scratches and openings in the tissue are consistent with postmortem animal activity. The mutilation of the groin area is also consistent with animal activity-postmortem.

Photographs 3C, 5C and 6C depict the buttocks, anus and inner aspect of the legs. The victim is lying on his stomach and the photographs were taken from above looking down. The scratches are consistent with animal claws and appear to be both peri and postmortem. None of these scratches are from the serrated knife in my opinion.

CONCLUSION

Based upon the facts of the event, the location of the bodies and all of the reports, it is my conclusion that the two victims #330-93 Steve Branch and #331-93 Chris Beyers show signs of both peri and postmortem animal mutilation. These opinions and conclusions are based upon my review of the above records, my training and experience which includes having seen similar cases of animal mutilation. This opinion is subject to modification should additional evidence be made available.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Souviron D.D.S.", written over a horizontal line.

RICHARD R. SOUVIRON, D.D.S.
Chief Forensic Odontologist
Miami Dade Medical Examiners Department

RRS: nb

Enclosures

January 11, 2007

References:

Bite Mark Evidence – Edited by Robert D.J. Dorion, Marcel Dekker-2005
Chapter 15 Animal Bites by: Richard R. Souviron, D.D.S.
Chapter 16 Dog Bite Marks by: Dorion
Chapter 18 Patterns, Lesions & Trauma Mimicking Bite Marks by: Dorion
& Souviron

Forensic Pathology-Principles and Practice Edited by: Dolinak, Matshes &
Lew-Published Elsevier Academic Press-2005
Chapter 27 Forensic Odontology-Souviron
Chapter 24 Postmortem Changes-Lew & Matsches

Medicolegal Investigation of Death, Fourth Edition, Edited by: Werner U.
Spitz
Cc Thomas-Publisher 2006
Chapter 6-Forensic Odontology Richard Souviron

Typed on January 4, 2007

ARKANSAS VS. ECHOLS

**12/31/06 16 photographs on a CD reviewed
Dr. Spitz photograph/Disc**

03-001	331-93	Genital injury W/M
0072-001	331-93	Genital injuries
1163-01	329-93	Scalp injuries -3 pattern injuries
004-01	331-93	Genital-Anal area
83-01	331-93	Scalp injury
1169-01	330-93	Left side of face
Stevies face	330-93	Left side of face, neck and head area
0012-1	330-93	Chin, neck, face-left side
0084-1	329-93	Left head injury
0067-1	330-93	Left side of face, neck and head
106-1	330-93	Full face, head and neck
71-1	331-93	Anus, scrotal, buttocks, right and left side.
570-1	blank	All black-no value
Ear 2 PDF	330-93	Back of left ear, scratches
3 photos-2 shoulder-	1 knife 329-93	right shoulder scrapes and knife
1396, 1380, x1969, 1398	329-93	same three photos-knife and shoulder

ME Case #

331-93= Chris Bowers (C)

329-93= J. Michael Moore (A)

330-93= Steve Edwards Branch (B)

Laceration = cut, contusion = bruise

Abrasion=scrape

December 27, 28, 29, 30, 31 2006. Reviewed

January 3, 4 2007

Dictate and transcribe notes

331-93=Chris Beyers- (C)
329-93=Michael Moore- (A)
330-93=Steve Edwards Branch (B)

Laceration=Cut
Contusion=Bruise
Adhesions=Scrapes

Dates Reviewed December 27, 28, 29, 30 and 31 2006

ARKANSAS VS. ECHOLS et al

A) 3 page letter reviewed from attorney Horgan- December 19, 2006
B) Item #5 (Horgan's letter) Dr. Spitz four page report
C) Item #1 (Attorney Horgan's letter) Autopsy reports-cases 329, 330, 331-93-Dr.
Sturner-Chief Medical Examiners
Dr. Perettie Associate Medical Examiners

Autopsy Report-331-93 (Chris Beyers)

Page #2-Bite Marks cheeks right and left side
Multiple facial abrasions and contusions
Multiple fractures base of skull

Page 4 skin of Penis, scrotal sac missing and testes missing-multiple linear superficial cuts
Pages 8-9 conclusions and pathologic diagnosis.

Autopsy Report-329-93 (J. Michael Moore)

Page 2 Linear scratches on mandible, right ear, multiple lacerations superficial
Page 4 Linear abrasions-spacing 1/16 by 1/8 inch- (my note-same distance as scratches on body 331-93).
Page 5 Multiple bite marks-tip and lateral margins of tongue (my comment-self inflicted)
Pages 7 & 8 Conclusions

Autopsy Report-330-93 (Steven Edward Branch)

Page 2 Scratches right mandible, multiple abrasions
Page 3 multiple gouging irregular cutting wounds, many terminating into oral cavity, multiple scratches/contusions to lower extremities.
Page 6 Penis injury, head and shaft-(human bite mark?)
Page 8 Conclusion cutting, gouging and abrasion involving facies, contusions, abrasions, lacerations of torso and extremities, injury to penis.

TRIAL TESTIMONY-DR. PERETTI-Associate Medical Examiner

Photograph-59A=right shoulder, caused by knife blade (serrated)
Photograph-66B=serrations from knife across the skin
Photograph-71B, 72B= knife injuries
Photographs 62B & 63B= knife injuries
Photograph 71C= cuts from knife-hundreds of them-not measured

Page #11 Description of genital injury from knife
Court testimony-state photographs

59A
61-61A
70-73A
86= 329-93 (J. Michael Moore) (A)

59B
60-72B=330-93 (Steve Edward Branch) (B)

59C-
61-73C=331-93 (Chris Beyers) (C)

COURT TESTIMONY DR. PERETTI (ASSOCIATE MEDICAL EXAMINER)

Page 22-Superficial cuts photos 65A-P 23
Hands defense wounds photo 73A

Page 24-Fractures top and back of head.

Page 25-Multiple injuries and drowning-homicide

Page 27-Photo 72B-irregular gouging cutting wounds face area consistent with knife gouging-knife in and twisting.

Page 28-Photo 66B caused by serrated knife --
Photos 64-65 Penis, this is a human bite mark , scratches caused by teeth. Injuries in victim A & B are similar.

Page 29-Photo 78-small abrasions, scraping of back.-left side of face, caused by knife or sharp object (victim 330-93 Steve Edward Branch)

Page 30-Photo 69 C groin-genital mutilation.
Photo 70C-scrotal sac-tested gone-serrations
Photo 71 through 73C-gouging inner aspect thighs, alive when done.

Page 33 Photo knife connected to injuries based on Dr. Perreti. States Exhibit #77.

Important Page 35-no evidence of insect or animal bites, no evidence of mosquitoes or insect bites show after death.

Page 44-No evidence of strangulation on any victim.

(Note: no intra oral photographs of palate for trauma indicating oral sex)

Page 44-injuries to mouth from a punch/slap or gag (internal)

Page 47-No injuries to back of mouth

Page 49-No trauma to anal area.

Page 52-53 Serrated knife caused the linear scratches-scrapes.

Page 54-Describes penis injury

Page 56-57 Discusses lot of blood loss, no blood found on bank.

Page 58- No blood, done elsewhere or in the water.

Page 62- Head of penis, skin scrotal sac and testes removed.

Page 63-Injuries consistent with three type of weapons, sharp knife, large blunt round instrument such as a broom handle.

12/16/06 Notes from Review of CD Disc containing more or less 1500 photographs.

Photo#2 Case 93-331 trauma to the buttocks, anus area, genitals missing.

Photo #15 Case 329 right face, ear, trauma,

Photo #19 left side of head

Photo#62 Lower lips internal? No trauma.

Photo #70 Upper lip with internal trauma

Victim 330-93

123& 125 left side face, chin and neck.

Photo#141 & 142- post mortem left side of face.

Photo#138-139- penis trauma-bite??

Photo# 166-post mortem inner of the inner aspect of upper lip, trauma to the left side,

Photo# 167-Post mortem inner or lower lip, trauma right and left side.

Photo #186 post mortem, trauma to lips face on the left side.

Scene Photographs-Crime Scene- black and white 2 bodies photograph #204

Photo# 215, 302, 332-woods and creek area.

Photo #208 trauma to the genital area post mortem

Victim 331-93

Photo# 239 243, 244, 246, 247 injuries to the genital area – post mortem trauma to inner aspect, both legs, genital and anus area.

Photo # 258- genital area

Photo#260-261, 262- lip trauma,

Photo#274, 281- 282-284, 286

EXHIBITS

Photo #300 left forehead, pattern injury, not teeth.

Photo #306 left forehead, the head and black pen (overlay?)

Photo# 308-310, 312-red pen?

Photo# 314, 316, (ABF Ruler-Marks?) exhibit 55

Photo #320-teeth marks in wax.

Photo #338-Forehead marks, above eyebrow, left side.

Photo# 354 Left ear, post mortem.

Photo#343, 345, circular patterns

Photo# 346, 348 overlays

Photo #349, 351, 352

Photo#1158 (body 330) Pattern, left eyebrow

Defense/States Exhibits 300-481 Pictures, Clothes, Knives, Shoes and print mold.

Photo #482-614 Evidence bags

Photo #615-619 black and white photographs?

Photo #620-655 and 683-1117- Evidence bags.

Photo # 615-619 black and white photographs

Photo # 656-682 Scene photographs

Photo#1112-1157 Scene photographs

Photo#1171-Rope & screw top

Photo# 1173-1174, 1178-Rope & screw top?

Photo# 1175-1176, 1177 Serrated knife.

Photo #1206-1281, 1286-1291

Photo# 1305-1334, 1520 More scenes and victims

Check out 1428-1444 #330

Photo #1444-1445 trauma to the penis #Case #330 bite marks?

Need prints of more important photographs

1444, 1445 – Penis

Also photographs 300,306, 308, 310, 312, 314, 316, 320, 338, 1206, 243, 239, 246, 247

EXHIBIT JJ

Dennis P. Riordan

From: Dennis P. Riordan [dennis@riordan-horgan.com]

Sent: Friday, March 09, 2007 4:40 PM

To: BRENT DAVIS

Dear Brent:

I'd like to thank you for the time and attention that you gave all of the defense attorneys last week when we visited you in Jonesboro. Allow me to follow up on the chief topic of our discussion, which is the new forensic evidence that we have been gathering concerning the victims' injuries. I'd like to explain why I believe this evidence is so important and then suggest why we should, and how we can, pursue a joint search for the truth on this critical issue.

To begin, I think it clear that if — and at this juncture in our discussions I emphasize the *if* — it were to be proven that many of the injuries suffered by the victims in this case, most specifically the genital mutilation of Chris Byers and the facial wounds of Steve Branch, were the result of post-mortem predation, the reliability of the jury verdicts in the Echols-Baldwin trial would be gravely undermined. That is so for least six reasons, the last two of which also apply to the verdict against Jesse Misskelley.

1. The Knife In The Lake

State's Exhibit 77, a large serrated knife, was recovered by police divers from a lake behind the trailer home of Jason Baldwin in November of 1993, some six months after the charged crimes and five months after the arrest and incarceration of the defendants. No witness was able to identify the knife as belonging to Echols or Baldwin, although one witness did testify it looked quite similar to one that she had once seen in Echols' possession. There was no evidence offered as to when or how the knife wound up in the lake, nor as to who might have put it there. No blood or other biological material was found on State's 77.

Doctor Peretti testified that some of the injuries on the victims, in particular some of the dozens of marks on Chris Byers and a few on Michael Moore, were consistent with the pattern of a serrated knife. He could not say, however, that any particular knife, including State's 77, made the marks. In the opening phase of the state's closing, prosecutor Fogelman unequivocally maintained — based on an experiment conducted during closing argument with a grapefruit that went beyond the testimony of Peretti — that State's 77 was the weapon used to cause specific injuries to the victims. (Transcript 2501-03, 2536-42). In your rebuttal remarks, you argued that the knife in the lake was used to remove the scrotum and skin of the penis of Chris Byers and that the knife, while being used to mutilate the victim's genitalia, caused gauge marks on his thighs and buttocks. (*Id.*, at 2614-16).

The knife was the only piece of evidence offered at trial that appeared to implicate both Echols and Baldwin. Given the importance attributed to the knife in closing, were it to be established that it was not used to mutilate Byers, that fact alone would arguably merit a new trial.

2. The Carson Testimony

Michael Carson testified that, when he was a 16-year old in the same juvenile detention facility as Baldwin, Carson was told by Baldwin that "he dismembered them. He sucked the blood from the penis and scrotum and put the balls in his mouth." Although legally the evidence was admissible only against Baldwin, it was used against Echols as well, as detailed below.

It is hard to imagine testimony more likely to irrevocably turn a jury against a defendant than that the blood curling account given by Carson. But if Byers' genital injuries were caused by animals after his death, it would necessarily follow that Carson perjured himself, a not uncommon phenomenon where jailhouse informants are concerned¹. A new trial would be justified on this ground alone.

3. The Ridge Statement

Detective Bryn Ridge testified that in an unrecorded interview he conducted for several hours on May 10, 1994 with Echols, the defendant said he understood the victims had been mutilated, with one being cut up more than the others, and that they had drowned. (RT 1566, 2349) The prosecution argued in closing that this statement was incriminating because the fact that one of the victims (Chris Byers) had been mutilated more than the other two victims was not yet in the public domain.

Echols testified that on May 10th he discussed with Ridge things he had "seen on TV, newspapers, people talking," and that when Ridge had asked him whether one victim had been hurt worse than the others, he had replied, "I guess so." The local and state press had reported on May 7, 1993, the day following the discovery of the bodies, that the victims had been bound and sexually mutilated, and that Mark Byers, the father of Chris Byers, had stated that one boy had been hit over the eye, another's jaw was injured, and the third "*was worse than that*" or "*looked worse than that*." (Commercial Appeal article of May 7, 1993; West Memphis Evening Times article of May 7, 1993; and Democrat-Gazette article of May 8, 1993) Thus the fact that one victim had been more severely mutilated than the others was in the public domain three days before the May 10th interview. Furthermore, as Ridge himself testified, at the time of the interview there were "all kinds of rumors of how people thought they died" circulating in the community.

If Chris Byers was mutilated not by his assailant but by animals after he was dead and in the water, any knowledge that Echols had of Byers's injuries came from news reports and word of mouth. The May 10th interview would have no value as proof that Echols had any unique or undisclosed knowledge of the crime.

4. The Occult Expert and The Satanic Theory

The theory of motivation for the murders argued in closing was that of religious belief: Echols believed in satanism, and the charged murders were satanic in nature, so Echols was likely to have committed them. Dale Griffis was permitted to take the stand on the ground that his testimony could assist the jury on the second component of the syllogism — that the killings were satanic in nature. The Arkansas Supreme Court described his testimony as follows:

Dr. Dale Griffis, an expert in occult killings, testified in the State's case-in-chief that the killings had the "trappings of occultism." He testified that the date of the killings, near a pagan holiday, was significant, as well as the fact that there was a full moon. He stated that young children are often sought for sacrifice because "the younger, the more innocent, the better the life force." He testified that there were three victims, and the number three had significance in occultism. Also, the victims were all eight years old, and eight is a witches' number. He testified that sacrifices are often done near water for a baptism-type rite or just to wash the blood away. The fact that the victims were tied ankle to wrist was significant because this was done to display the genitalia, *and the removal of Byers's testicles was significant because testicles are removed for the semen. He stated that the absence of blood at the scene could be significant because cult members store blood for future services in which they would drink the blood or bathe in it. He testified that the "overkill" or multiple cuts could reflect occult overtones. Dr. Griffis testified that there was significance in injuries to the left side of the victims as*

distinguished from the right side: People who practice occultism will use the midline theory, drawing straight down through the body. The right side is related to those things synonymous with Christianity while the left side is that of the practitioners of the satanic occult.

Echols and Baldwin v. State, 326 Ark. 917, 938-941, 936 S.W.2d 509, 518-519 (1996) (Emphasis added)

The hypothetical on which Griffis offered his opinion included the fact that Jason Baldwin sucked the blood from the penis of one victim. Griffis's testimony concerning the Satanic nature of the crime, which was offered chiefly against Echols, was thus firmly based on the Carson testimony.² Prosecutor Fogelman then argued in closing that these killings were yet another example of the terrible wrongs that historically have been committed in the name of religion.

There was no empirical basis for Griffis's testimony that there have been satanically-motivated killings in which testicles were removed to preserve semen, or blood was preserved to drink or bathe in, or the faces of victims were injured on the left side rather than the right based on the "midline theory." More importantly, if the perpetrators of these murders did not remove Byers's testicles, much less remove them to preserve semen, then Griffis's highly inflammatory opinion testimony was of no probative value whatsoever. The absence of blood from apparently horrendous wounds was not due to the defendants' toting it away to drink or bathe in it, but to the fact that the most egregious injuries were inflicted post-mortem by animals. And the appalling condition of the left side of Branch's face, as opposed to the right side, was due not to an expression of occult beliefs, but to animal predation.

It was the combination of these supposed facts — (1) that the victims had been so horribly mutilated by their killer or killers and (2) Griffis's claim that the wounds were motivated by occult beliefs — that enabled prosecutor Fogelman to argue that "the satanic beliefs" were "a perfect motivation" and that when "you begin to see inside Damien Echols . . . [y]ou see inside that person and you look inside there and there's not a soul in there." If this devastatingly powerful argument proves to be based on false or misleading testimony, a new trial would be in order.

5. The Misskelley "Confession"

Jesse Misskelley was tried separately from Echols and Baldwin, and the Arkansas Supreme Court has stated that "virtually the only evidence" offered against Misskelley was his own statement to the police. Under prompting from interrogators Ridge and Gitchell — Misskelley rarely if ever gave a spontaneous answer himself, but simply acceded to suggestions put to him — Misskelley stated that Jason used a knife to cut a victim in the face. When told that another boy was cut, Misskelley said that this victim was cut "at the bottom." Again under strong prompting, Misskelley agreed with the suggestions of his interrogators that the cutting was in the "groin area" and that the penis was cut, and stated that the victim was Byers. (Statement of June 3, 1993, at 2:44 p.m.) This statement was taken a month after press reports of the sexual mutilation of Byers began circulating.

If neither Byers nor either of the other two victims was cut with a knife, the Misskelley confession, which contains many other flaws,³ would be further and crucially undermined.⁴ While the Misskelley statement was not introduced against Echols and Baldwin, we know that their jurors were aware of it and discussed it during deliberations. Echols has raised this as a basis for relief in his pending federal habeas petition.

6. The Prosecution Counter To The Man at Bojangles

The prosecution used the absence of blood at the crime scene to rebut the defense argument that

a likely suspect was “Mr. Bojangles,” a black man who walked into the Bojangles restaurant, located a half mile from the crime scene, at 8:30 p.m. on the night of May 5th, within two hours of the victims’ disappearance. This man was incoherent and dripping blood; entered the women’s room at the restaurant and spread blood and feces on the wall; and then left. The police collected samples of the wall smearings the next day, only to lose them. A hair of an African-American located at the crime scene has been subjected to DNA mitochondrial testing.

You argued to the jury in closing that this unstable man “who’s unsteady on his feet” could not have been responsible for these crimes because “whoever did it was so careful that there’s not any blood in the area.” Proof of largely post-mortem injuries would wholly undercut the argument of a necessarily cleaned up crime scene.

Obviously, the fact that the incidence of animal predation would be very important in this case, as demonstrated above, does not constitute evidence such predation occurred, and I would not expect you to accept the proposition on anything but convincing proof. I believe that such proof can be presented to you. As I said in Arkansas, the opinions of the experts have driven this theory, rather than the lawyers’ theory driving the expert opinions. My initial reason for seeking a pathological work-up was that I doubted that a knife as large and dull as State’s 77 could have been used to skin the penis of Chris Byers, but I never expected to be told that his genital injuries and those on Branch’s face were not man-made. After listening to the opinions of these well-credentialed experts, I now firmly believe that is the case.

We will be prepared to present our new forensic evidence in court, but, because we do truly believe in the accuracy of these medical opinions, we would like to present that evidence to you in a consultative rather than adversarial process. You have asked, with a not inappropriate note of skepticism, whether we are prepared to lay all our cards on the table, disclosing all opinions we receive, rather than merely ones that are supportive of our position. I am prepared to do so provided that we receive a simple quid pro quo: an assurance that you and any experts that you utilize will approach the subject without an adversarial agenda, letting the science take you where it will. We are also more than willing to cooperate in developing a process for further evaluation of this issue by mutually agreed upon experts.

Again, I thank you for your time and look forward to discussing these matters with you in the near future.

Sincerely,

Dennis Riordan

¹A recent study linked nearly half of recent wrongful capital convictions in this country to the uncorroborated testimony of a jailhouse informant. Gross, et. al., Exonerations In The United States, 1989 through 2003, *Journal of Criminal Law and Criminology* Vol. 95, No. 2 (2005).

²

Griffis agreed that if the Carson evidence was incorrect, there was nothing to connect Baldwin to the occult. (RT 1798-99)

³ Misskelley’s initial statement described him walking to meet Damien and Jason in Robin Hood Woods in the early morning hours of May 5th, 1993, and then watching the victims be abducted on their way to school, beaten, and sexually assaulted. Misskelley said he then returned home before noon. The three boys in fact attended school all that day, as did Jason Baldwin, and they did not go missing until after 6

p.m. on May 5th. The Arkansas Supreme Court stated that “upon prompting by the officer,” Misskelley changed the time of the assault “to 7:00 or 8:00 p.m.” *Misskelley v. State*, 323 Ark. 449, 464-66, 915 S.W.2d 702 (1996)

Misskelley was unable during hours of questioning, despite vigorous police prompting, to describe the most obvious aspects of the crimes, most notably the shocking manner in which the victims were hog-tied with their own shoelaces. Rather than describing the hog-tying with shoelaces, Misskelley said only that the victims’ hands were tied, and that was done with brown rope. Finally, Detective Ridge flatly asked “were they [sic] hands tied in a fashion that they couldn’t have run, can you tell me?” Misskelley replied: “They could run...”

⁴A recent academic study of well established wrongful convictions found that 51 of 340, or fifteen percent, involved a false confession. Gross, et. al., *Exonerations In The United States*, 1989 through 2003, *supra* (note 1).

EXHIBIT KK

Law Office of Michael Burt
600 Townsend Street, Suite 329-E
San Francisco, California 94103
415-522-1508 phone; 415-522-1506 fax
michael.burt@prodigy.net

May 15, 2007

Dr. Frank Peretti
Medical Examiner
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, Arkansas 72215

Re: Arkansas v. Echols, Baldwin, and Misskelley; meeting scheduled for May 17, 2007 at 10:30 a.m.

Dear Dr. Peretti,

Initially, we - the lawyers for defendants Echols, Baldwin, and Misskelley - want to thank you for agreeing to meet with a group of forensic experts with whom we have been working in an effort to resolve a number of questions left unanswered by the trials in these cases. In an effort to facilitate a productive exchange of views, we would like to provide you in advance with an overview of the conclusions thus far reached by these experts concerning the nature, timing, and cause of certain injuries sustained by the three victims.

Defense Experts

As a preliminary matter, those attending the meeting on our behalf will be forensic pathologists Vincent Di Maio and Michael Baden and forensic odontologists Richard Souviron and Michael Wood. In addition, the Echols team has consulted with forensic pathologist Werner Spitz. While Dr. Spitz cannot attend on the 17th, his opinions are included among the others described below.

Defense counsel have also consulted, and continue to consult, with Dr. Janice Ophoven, a pediatric pathologist and former Medical Examiner for Hennepin County, Minnesota; Dr. Bruce Hyma, Medical Examiner for Miami-Dade County; and Dr. Michael Tabor, dentist and faculty

member at the University of Tennessee's Forensic Anthropology Center, and Chief Odontologist for the Medical Examiner's Office Davidson County and Tennessee State Odontology Consultant. Drs. Ophoven and Hyma have reviewed your testimony, case photographs and your post mortem examination reports. Finally, we expect that Dr. Tabor will have issued a letter report by the time of our meeting. Due to scheduling difficulties none of the just named experts is available for the meeting.

The chronology of the defense experts' involvement is as follows. It was the Baldwin team that first received a preliminary opinion that the injuries suffered by the victims were caused by animal predation and that the genital wound to Christopher Byers' penis may have been the product of animal "degloving."

Around the same time, the Echols team was seeking an opinion as to whether or not the "lake knife" could have caused the Christopher Byers injuries, which we assumed were the product of some sort of sharp instrument. Quite frankly, we were surprised when we received a second, independent opinion that these injuries resulted from animal predation.

Materials Reviewed

Each expert who will attend the meeting was supplied with (1) a compact disc containing numerous crime scene and autopsy photos relating to the cases; (2) your autopsy reports for all three of the victims; (3) your trial testimony at the Echols-Baldwin trial; and (4) excerpts from the prosecutors' closing arguments at the Echols-Baldwin trial in which prosecutor Fogelman discusses evidence purportedly linking certain victim injuries to a knife (exhibit 27) found in the lake near Jason Baldwin's trailer.

In addition, Drs. Di Maio, Baden, Souviron, and Wood were supplied with the trial testimony of Dr. Duke Jennings, who addressed the issue of time of death; Drs. Souviron and Baden were informed of Dr. Spitz's preliminary conclusions, and provided a CD produced by Dr. Spitz excerpting certain relevant photos; and Drs. Souviron and Wood were given copies of the Arkansas Supreme Court's opinions affirming the defendants' convictions.

Conclusions as to Nature and Cause of Injuries

All of our experts agree that the victims' deaths were homicides, and that they were

caused by blows to the head, drowning, and/or some combination thereof. In their view, none of the injuries to the victims' heads are consistent with the use of a stick or branch as opposed to a much heavier and harder object.

In addition, and as noted, the general conclusion shared by the attending is that, apart from the blunt force injuries to the head, the injuries to the skin of the victims - i.e., the hundreds of gouges, punctures, lacerations, abrasions, and scratches - were not caused antemortem by the use of a knife, but were instead, in almost all instances, the post-mortem product of animal predation. In addition, our experts have concluded that none of the victims exhibited injuries consistent with sexual abuse such as anal penetration or oral sex.

A. Christopher Byers

At trial, you testified concerning the genital mutilation of Christopher Byers. You stated that the skin of the penis had been removed or "carved off;" that the groin area displayed a serrated pattern; and that while any serrated knife could have made that pattern, it was consistent with the knife recovered from the lake. (See Echols-Baldwin ("EB") RT 1062-68, 1074; state exh. 69C, 72C, 73C) So too were the gouging and "cutting" wounds appearing on Christopher's buttocks. (EB RT 1066-67, 1074) Hemorrhaging of the latter wounds indicated that Christopher was alive when they occurred. (EB RT 1067; exh. 71C)

None of the foregoing wounds were among the post-mortem injuries you described for Christopher. (EB RT 1065) Your testimony also stated that Christopher had essentially bled to death. (EB RT 1114-15)

Based on their review of the relevant autopsy photos depicting these injuries, the attending experts believe that the above wounds were due to anthropophagy, i.e., postmortem injuries inflicted by large and small animals. In their view, none of Chris's injuries were caused by a knife, much less the knife recovered from the lake; the wound characteristics of Byers' injuries are compatible with animal claws and teeth and inconsistent with the dimensions and configuration of the lake knife. Claw marks appear on both sides of the anus, predominantly on the left side, with straight, parallel scratches. The penis and scrotum were ripped and chewed off postmortem. The edges of the wound are irregular, ragged, without evidence of bruising, and were not cut or skinned by a knife. The small amount of hemorrhage under the skin in certain

locations does not alter the experts' views on these points.

Our attending experts have also concluded that rather than being carved, Christopher's scrotum and the skin covering the penis were removed by an animal in a "degloving" process. As to injuries surrounding Christopher's groin, use of a large knife, particularly a dull one, would have caused incisions far deeper and more extensive than the "irregular punctuate gouging type injuries measuring from 1/8 inch to 3/4 inch and [with] a depth of penetration 1/4 inch to 1/2 inch" as described in Christopher's autopsy report (at p. 4).

Our experts have compiled an extensive array of articles in support of their conclusions concerning "degloving" and other aspects of animal predation. We will provide such articles to you at the time of the meeting.

B. Steven Branch

As to Steven Branch, the relevant forensic testimony at trial, like the autopsy report, noted the presence of abrasions or cuts overlying the facial area on the right side, "a confluent area of abrasion, scraping involving the face. Also overlying this area, [there are] multiple, irregular, gouging type cutting wounds." Such wounds, the testimony continued, was consistent with the use of a sharp object such as a serrated knife. (EB RT at 1054-55, 1061, 1074; see also exh. 70B, 72B) As to the "irregular type gouge marks," such wounds were deemed the type of injuries caused when a knife or other sharp object is put into the person and twisted and pulled, combined perhaps with the movement of the victim. (EB RT at 1055)

Here again, it is our experts' view that none of the injuries to Steven Branch, including those described above, were the product of a knife, serrated or otherwise. The large area with scattered irregular lacerations on Steven's left cheek was caused by large animals and claw marks on a background of abrasion from licking off emanating blood and tissue fluids. One expert believes some of the marks to Steven's face may have been caused by dragging.

C. James Michael Moore

The trial testimony adduced as to the injuries suffered by Michael Moore again described certain serrations and abrasions (EB RT at 1044, 1048; see also exh. 60A, 65A, 68A), including some on the chest and the hands, which were again deemed consistent with the use of a serrated

knife such as the lake knife, i.e., exhibit 77(ER RT at 1174). Again, all of the defense experts view such injuries (apart from those appearing on the head) as the product of post-mortem animal predation. The "serrated" injuries on the right side of Michael's chest are claw marks, as depicted in autopsy photographs from the relevant literature which we will supply you at the meeting.

Again, we want to express our gratitude for your willingness to consider the views of our experts in this complex and important case.

Sincerely,

Michael N. Burt
Attorney for Jesse Misskelley

EXHIBIT LL

Don Horgan

From: "Dennis P. Riordan" <dennis@riordan-horgan.com>
To: "BRENT DAVIS" <brentdavis@ritternet.com>
Cc: <JPhilipsbo@aol.com>; "Michael Burt" <michael.burt@prodigy.net>
Sent: Tuesday, July 10, 2007 4:13 PM
Subject: State v. Echols, Baldwin, Misskelley

Dear Brent:

This responds to your letter and e-mail to John Philipsborn, Michael Burt and me dated June 25, 2007. I have addressed the matters raised in your letter in the order they were presented.

(1) **Tissue Slides.** Please have the slides sent to Dr. Werner Spitz at the following address: 23001 Greater Mack; St. Claire Shores, Michigan; 48080-1901. Please feel free to use our Federal Express account number, which is 1303 7658 4.

Dr. Spitz will ensure that the slides are transmitted directly to the other defense experts who wish to review them. I also suggest that you retain the airbill accompanying the package you send to Dr. Spitz. We will then provide Dr. Spitz and all subsequent experts with federal express airbills so that the chain of custody for the slides can be tracked from expert to expert.

(2) **Fingerprints.** Thank you for your update and for your effort to run down the relevant information on the polaroid print and related materials. We look forward to hearing the FBI's response to your pending inquiry as soon as you learn of it. If you are willing to provide them, we would also much appreciate a usable copy of the polaroid along with the other materials contained in the fingerprint examiner's file at the Little Rock Crime Lab. We realize that the significance of any of these items remains to be determined, but we think we may be able to help advance the inquiry on that issue at our end.

(3) **Terry Hobbs.** Thank you for directing Lisa Channel to send Terry Hobbs's known hair samples to Bode for testing. We appreciate your willingness to confirm or negate Terry Hobbs's status as a suspect in these cases. Also, consistent with the spirit of our "sharing agreement," we are willing to provide you with our investigative reports on interviews of Terry and Pam Hobbs in exchange for the transcripts you mention in your June 27th letter.

(4) **Dr. Peretti.** Again, thank you for following up with the medical examiners' office as to what the agency's files disclose concerning previous incidents of possible animal predation. Given our experts' view that predation in this case may have occurred while the victims were out of, as well as submerged under, the water, we would much appreciate your providing us the information on possible predation incidents involving both such scenarios.

As to my letter to Dr. Peretti, I assumed that after our meeting in Little Rock I could write him directly but I erred in not copying you. I will make sure that you are copied in the future on any communication we have with him.

Finally, I would like to confirm my understanding, based on your response in late June to John's inquiry, that there are no experts other than Dr. Peretti, wildlife expert Kelly Irwin, and the odontologists who were mentioned or who testified in the Echols Rule 37 proceedings working on these cases on the state's behalf.

(5) **DNA Linked to Hobbs.** Given the relatively late date of our arrival in the case, we know only that the item "2S04-114-03A" was designated by Bode as a hair from the Michael Moore ligature. (See, e.g., Bode's STR Forensic DNA Case Report dated 12-30-05 at 1) It is our understanding that there were very extensive discussions between your office and John and Michael as to the identification of items transmitted to Bode, so they may be more helpful in resolving this issue.

We have learned from Bode, however, that while hair no. 03Aa from Bode No. 2S04-114-03A/ Item No. 93-05716 FP6 was tested and is the one we have linked to Mr. Hobbs, a second hair — no. 03Ab — from Bode No. 2S04-

10/25/2007

114-03A/ Item No. 93-05716 FP6, also associated with the Moore ligature, was not tested, despite the fact that testing of 03Ab is authorized by the Amended DNA Order. Apparently the lab previously deemed no. 03Ab too small to produce a useful result. We have asked Bode to provide us with an opinion whether testing at this date might produce a useful result and will keep you apprised of what we learn on this point.

(6) **Items Held By Dan Stidham.** Thank you for your agreement that these items can be tested at Bode. We will consult with John and Michael and get back to you with a proposed procedure for transmission of the materials to Bode and for testing them once they've arrived there.

I look forward to hearing your comments on the above as soon as you have the opportunity to pass them along.

Sincerely,

DENNIS P. RIORDAN

EXHIBIT MM

TERRI L. HADDIX, M.D.
Forensic Pathologist
Forensic Science Division

PROFESSIONAL EXPERIENCE

Dr. Haddix has worked in the area of forensic pathology for over 10 years. She received forensic pathology training in Seattle, WA and neuropathology training at Stanford. She is board certified in anatomic, forensic and neuropathology. She has performed forensic autopsies in several counties throughout California and has testified as an expert in forensic pathology in both criminal and civil cases.

LICENSURE

- Washington, No. 26810
- California, No. G82165

BOARD CERTIFICATION

- Diplomate, American Board of Pathology
- Anatomic and Forensic Pathology, 9/1997
- Neuropathology, 9/2005

FACULTY POSITIONS

- 2006 - present: Clinical Assistant Professor, Department of Pathology, Stanford University Medical Center, Stanford, CA
- 2005 - 06: Clinical Instructor, Department of Pathology, Stanford University Medical Center, Stanford, CA
- 1999 - present: Assistant Clinical Professor, Department of Pathology, University of California, San Francisco, CA
- 1996 - 1997: Assistant Clinical Professor, Department of Pathology, University of California, San Diego, CA
- 1989 - 1990: Teaching Associate, Division of Cardiothoracic Surgery, University of Washington, Seattle, WA

EDUCATION

- 1979 - 1982: Major: Molecular, Cellular and Developmental Biology University of Colorado, Boulder, CO
- 1982 - 1983: BS, Biology, University of New Mexico, Albuquerque, NM
- 1983 - 1987: MD, graduation with honors, University of Colorado School of Medicine, Denver, CO

TERRI L. HADDIX, M.D.
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POSTGRADUATE TRAINING

- 1987 - 1989: General Surgery Resident, University of Washington, Seattle, WA
- 1992 - 1994: Pathology Resident, University of Washington, Seattle, WA
- 1994 - 1995: Assistant Medical Examiner (Fellowship), King County Medical Examiner's Office, Seattle, WA
- 07/1995 - 12/1995: Washington State Forensic Pathology Specialist, University of Washington, Seattle, WA
- 2003 - 2005: Neuropathology Fellow, Stanford University, Stanford, CA

OTHER PROFESSIONAL EXPERIENCE

- 12/2005 - : Forensic Pathologist, Forensic Analytical Specialties, Inc., Hayward.
- 10/1998 - 05/2003: Forensic Pathologist, San Mateo County Coroner's Office, San Mateo, CA
- 11/1997 - 09/1998: Assistant Medical Examiner, San Francisco Medical Examiner's Office, San Francisco, CA
- 01/1996 - 10/1997: Deputy Medical Examiner, San Diego Medical Examiner's Office, San Diego, CA

LOCUM TENENS

- 1999 - 2005: Monterey County Sheriff-Coroner's Office, Salinas, CA
- 2000 - : San Luis Obispo County Sheriff-Coroner's Office, San Luis Obispo, CA
- 2000 - 2003: Santa Barbara County Sheriff-Coroner's Office, Santa Barbara, CA
- 2001 - 2002: San Joaquin County Sheriff-Coroner's Office, French Camp, CA
- 2002 - 2003: Western Laboratories Medical Group, Contracted with Alameda County Sheriff-Coroner's Office, Oakland, CA
- 2003 - : Santa Cruz County Sheriff-Coroner's Office, Santa Cruz, CA

PROFESSIONAL ACTIVITIES

- **Memberships:**
1995 - 2003: National Association of Medical Examiners
1995 - : American Academy of Forensic Sciences
2001 - 2003: South Bay Pathology Society
- **Committees:**
1999 - 2003: San Mateo County Child Death Review Team

RESEARCH EXPERIENCE

- 1990 - 1992: Research Fellow, Division of Cardiothoracic Surgery, University of Washington, Seattle, WA

TERRI L. HADDIX, M.D.
Curriculum Vitae, page 3

PUBLICATIONS

1. Haddix T, Chang S, Vogel H. A Thirty-five year old with a Dural-based Mass. *Brain Pathol* 17(3): 331-2, 2007.
2. Morgan T, Zhao S, Chang K, Haddix T, Domanay E, Cornbleet P, Arber D, Natkunam Y. Low CD27 expression in plasma cell dyscrasias correlates with high risk disease: An immunohistochemical analysis. *Am J Clin Path* 126(4): 545-51, 2006.
3. Lim M, Haddix T, Harsh G, Vogel H, Steinberg GK, Guccione S. Characterization of the Integrin $\alpha\beta3$ in Arteriovenous Malformations and Cavernous Malformations. *Cerebrovasc Dis* 20: 23-27, 2005.
4. Lim M, Guccione S, Haddix T, Sims L, Cheshier S, Chu P, Vogel H, Harsh GH. Avb3 Integin in Central Nervous System Tumors. *Hum Pathol* 36(6): 665-9, 2005.
5. Reed W, Walker P, Haddix T, Perkins HL. Acute anemic events in sickle cell disease. *Transfusion* 40: 267-73, 2000.
6. Sato TT, Kovacich JC, Boyle EM Jr, Haddix TL, Weintraub A, Pohlman TH. CD14-dependent activation of human endothelial cells by *Bacteroides fragilis* outer membrane. *J Surg Res* 74(2): 103-11, 1998.
7. Logan BK, Fligner CL, Haddix TL. Cause and manner of death in fatalities involving methamphetamine. *J Forensic Sci* 43(1): 28-34, 1998.
8. Haddix TL, Harruff RC, Reay DT, Haglund WD. Asphyxial suicides utilizing plastic bags. *Am J Forensic Med Pathol* 17(4): 308-11, 1996.
9. Haddix TL, Pohlman TH, Noel RF, Sato TT, Boyle EM Jr., Verrier ED. Hypothermia inhibits human E-selectin transcription. *J Surg Res* 64(2): 176-83, 1996.
10. Johnson M, Haddix T, Pohlman T, Verrier E. Hypothermia reversibly inhibits endothelial cell expression of E-selectin and tissue factor. *J Card Surg* 10 (Suppl): 428-35, 1995.
11. Deisher TA, Haddix TL, Montgomery KF, Pohlman TH, Kaushanski K, Harlan JM. Role of protein kinase C in the induction of VCAM-1 expression on human umbilical vein endothelial cells. *FEBS Lett* 331(3): 285-90, 1993.
12. Peterson VM, Moore EE, Jones TN, Rundus C, Emmett M, Moore FA, McCroskey BL, Haddix T, Parson PE. Total enteral nutrition versus total parenteral nutrition after major torso injury: attenuation of hepatic protein reprioritization. *Surgery* 104(2): 199-207, 1988.

TERRI L. HADDIX, M.D.
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13. Peterson VM, Murphy JR, Haddix TL, et al. Identification of novel prognostic indicators in burned patients. *J Trauma* 28(5): 632-7, 1988

ABSTRACTS

1. Miller CR, Haddix T, Dunham CP, Perry A. Clinical significance of prospective molecular genetic analysis of glial neoplasms: the Washington University FISH laboratory experience. Presented at 2007 (April) American Association of Neuropathology meeting, Washington, DC.
2. Haddix T, Recht L, Myles T, Leung L, Vogel H. Overexpression of osteopontin (OPN) in glioblastoma multiforme (GBM). Presented at 2005 (June) American Association of Neuropathology meeting, Arlington, VA.
3. Pate L, Haddix T, Vogel H. Glioblastoma with remote subcutaneous metastases. Presented at 2005 (June) American Association of Neuropathology meeting, Arlington, VA.
4. Lim M, Guccione S, Haddix T, Chu P, Vogel H, Steinberg G, Harsh G. Characterization of the integrin $\alpha\beta3$ expression in arteriovenous malformations and cavernous malformations. Presented at 2005 (February) American Association of Neurological Surgeons meeting (vascular section), New Orleans, LA.
5. Lim M, Guccione S, Haddix T, Chu P, Vogel H, Steinberg G, Harsh G. Characterization of the integrin $\alpha\beta3$ expression in arteriovenous malformations and cavernous malformations. Presented at 2005 Stroke meeting, New Orleans, LA.
6. Lim M, Guccione S, Haddix T, Chu P, Vogel H, Steinberg G, Harsh G. Characterization of the integrin $\alpha\beta3$ expression in arteriovenous malformations and cavernous malformations. Presented at 2005 (April) American Association of Neurological Surgeons meeting, New Orleans, LA.
7. Lim M, Guccione S, Haddix T, Chu P, Vogel H, Harsh G. Role of the $\alpha\beta3$ Integrins in Angiogenesis of CNS Tumors. Presented at 2004 Congress of Neurological Surgeons meeting, San Francisco, CA.
8. Haddix T, Prichard J, Warnke R, Vogel H. Primary Hodgkin's Disease in the brain of a HIV-positive adult. Presented at 2004 American Association of Neuropathologists annual meeting, Cleveland, OH.
9. Lim M, Guccione S, Haddix T, Homer R, Atlas S, Harsh G. Expression of $\alpha\beta3$ integrin in Human Glioblastoma Multiforme. Presented at 2004 American Association of Neurological Surgeons, Orlando, FL.

TERRI L. HADDIX, M.D.
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ABSTRACTS (continued)

10. Haddix TL, Symes SA. Atypical decomposition and power saw dismemberment. Presented at 2003 National Association of Medical Examiners annual meeting, San Jose, CA.
11. Haddix TL. Death associated with a portable infusion device. Presented at 2001 National Association of Medical Examiners annual meeting, Richmond, VA.
12. Logan BK, Fligner CL, Haddix TL. Cause and manner of death in fatalities involving methamphetamine. Presented at 1998 American Academy of Forensic Sciences annual meeting, San Francisco.
13. Logan BK, Fligner CL, Haddix TL. Methamphetamine fatalities in Washington state, 1993-1995: Interpretation of methamphetamine concentrations. Presented at 1997 American Academy of Forensic Sciences annual meeting, New York.
14. Haddix TL, Harruff RC, Reay DT, Haglund WD. Asphyxial suicides utilizing plastic bags. Presented at 1995 National Association of Medical Examiners annual meeting, San Diego.
15. Harruff RC, Reay DT, Haddix TL, Miller SR, Webster JN, Haglund WD. Correlation of collision dynamics with injuries in traffic fatalities. Presented at 1995 National Association of Medical Examiners annual meeting, San Diego.
16. Sato TT, Martin S, Haddix TL, Neil D, Weintraub A, Pohlman TH. Activation of endothelial leukocyte adhesion by *B. fragilis* outer membrane. Presented at the Scientific Session of the 71st Annual Meeting of the American College of Surgeons Committee on Trauma, San Diego, 1993.
17. Haddix TL, Montgomery KF, Pohlman TH, Verrier ED. Reversible inhibition of Endothelial Leukocyte Adhesion Molecule 1 (ELAM-1) expression in hypothermic endothelial cells. Presented at Clinical Congress of the American College of Surgeons, Chicago, 1991.
18. Peterson VM, Rundus C, Haddix T, Cherry D. Topical cerium nitrate enhances myelopoiesis in a mouse model of thermal injury. Presented at 1988 American Burn Association Meeting, Seattle.
19. Peterson VM, Emmett M, Murphy J, Gunther P, Ford P, Haddix T, Bartle E, Mancusi-Ungaro H. Serum group-specific component protein levels predict patient outcome following major thermal injuries. Presented at 1988 American Burn Association Meeting, Seattle.

TERRI L. HADDIX, M.D.
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ABSTRACTS (continued)

20. Peterson VM, Moore EE, Jones TN, Rundus C, Moore F, McCroskey BL, Haddix TL, Emmett M, Parson PE. Total enteral nutrition versus total parenteral nutrition following major torso injury: Attenuation of hepatic protein reprioritization. Presented at 1988 Society of University Surgeons.

EXHIBIT NN

RIORDAN & HORGAN

DENNIS P. RIORDAN
DONALD M. HORGAN

ATTORNEYS AT LAW
523 OCTAVIA STREET
SAN FRANCISCO, CALIFORNIA 94102
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October 4, 2007

Dr. Frank Peretti
Medical Examiner
Arkansas State Crime Laboratory
3 Natural Resources Drive
Little Rock, AR 72215

Re: Arkansas v. Echols, Baldwin, and Misskelley

Dear Dr. Peretti:

I thank you again for meeting with us at your office in Little Rock in May. At that meeting, several forensic experts — Doctors DiMaio, Baden, Woods, and Souviron — presented you with their views on the etiology of the injuries suffered by Chris Byers, Steve Branch, and James Michael Moore, the victims in the murder cases charged against my client, Damien Echols, as well as Jason Baldwin and Jesse Misskelley. We did not ask you to respond specifically to our presentation at the meeting; rather, you listened attentively and promised to give the presentation your careful consideration.

We are approaching the point where we will be filing court pleadings in which we intend to rely on the conclusions of our forensic experts. In so doing, we want to ensure that we do not in any way misstate your position on the scientific matters those experts will be addressing. That is of particular importance because in a number of instances our experts will be discussing issues on which you have not yet taken a position, in the sense that you expressed no or very little opinion on them either in your autopsy reports on the three victims, or in your testimony at the Misskelley and Echols-Baldwin trials, or at our May meeting.

We would like to pose a series of questions to you concerning your findings in this case which we believe will be raised as the legal proceedings in the Echols matter progress. It will be enormously useful to define those matters on which some or all of the experts for the parties can agree and those as to which differences remain. We will be happy to field your responses in whatever form or format is most convenient to you, be it a phone call, e-mail, a letter, or a follow up meeting. The key questions are as follows:

1. At the Echols-Baldwin trial, you discussed the difference between pre-mortem, peri-mortem, and post-mortem injuries, and stated that one or more of the victims in this case suffered post-mortem injuries. (RT 1064-1065) You were not asked to catalogue the post-mortem injuries suffered by the victims, and you did not do so. The same was true of your testimony at the Misskelley trial. (RT 838)

(A) Can you now identify and list the injuries you would classify as post-mortem?

(B) Do you have an opinion of the agency mechanism that caused the injuries that you classified as post-mortem?

2. At the Echols-Baldwin trial, you identified a few of the wounds suffered by the victims as exhibiting a pattern consistent with that made by a serrated knife, although you stated that it would not be possible to trace the injuries to any specific serrated instrument, such as People's 77, the large serrated "survival knife" introduced into evidence during the prosecution's case. (RT 1108-1109) You also stated that the victims had suffered "hundreds of abrasions." (RT 1017)

(A) Do you have an opinion as to what caused the abrasions that you did not identify as exhibiting a serrated pattern?

(B) Do you agree that there are many abrasions on the three bodies are at least consistent with their having been caused by animal predation?

3. At the Echols-Baldwin trial, you testified concerning the genital mutilation suffered by Chris Byers, whose testes had been removed along with the skin, but not the muscle, of his penis. (RT 1066) You also testified that to accomplish this mutilation a person would have needed both a knowledge of anatomy and a very sharp implement, and that you as a physician could not do it in 5-10 minutes, even in a laboratory setting and using a scalpel. You further testified that it would have been difficult to do this sort of operation in the night, near water, with mosquitos around. (RT 1110-14)

(A) Is it your opinion that the genital mutilation of Chris Byers was a pre-, peri-, or post-mortem injury?

(B) Whatever the time frame, and given your testimony concerning the difficulties involved in any attempt to cause effectuate this injury by use of an cutting instrument, what is your opinion as to the agency mechanism, means, or instrument that caused the Byers mutilation?

(C) Do you agree that the large serrated "survival knife" which you examined at trial (People's 77) could not have been the "very sharp instrument" that would have been required to surgically remove Byers' testes and the skin of his penis?

(D) Do you agree that the removal of the Byers testes and the skin of his penis was accomplished by a process described in the medical literature cited at our meeting as "degloving?" If you have no firm opinion on whether that was the cause, do you agree that the injury is at least consistent with the "degloving" phenomenon described in the literature?

4. Concerning the facial abrasions on the left side of the face of Steve Branch, do you agree based on your education and experience as a forensic pathologist that there is no empirical basis for a conclusion that such left-side injuries are indicative of a satanic motivation on the part of the perpetrator of the homicide?

5. Do you agree that the pattern that a serrated knife would make on human flesh cannot be reproduced by using that knife to make an impression on the skin of a grapefruit?

6. Do yo agree that the relevant medical literature refutes the proposition that the dilation of the anus exhibited on one or the other of the bodies of the victims in this case was caused by that victim being sodomized? I enclose a journal article on the issue.

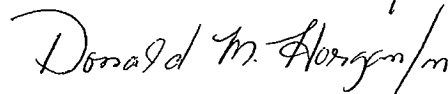
In addition to your views on these issues, we are also interested in getting access to any case files in your archives that you rely on in formulating your opinions or that otherwise would

be helpful in resolving this important case. For example, you testified that abrasions on the mouths and ears of one or more of the victims could have been inflicted while the victims were being subjected to forced oral copulation. To the extent that these conclusions were based on a review of reports or photographs in other cases, we would appreciate the opportunity to review those files. Additionally, at our meeting you offered to make available to our experts files of bodies located in water in Arkansas over (I believe) the last decade, and you indicated that you were reviewing your office's records of post mortem examinations and autopsies dating back 10 years from the present in an effort to investigate the condition of the human remains examined by your office that had reportedly been located in water. Any assistance in that and any other regard likewise will be deeply appreciated.

Sincerely,



DENNIS P. RIORDAN



DONALD M. HORGAN

cc: John Philipsborn
Michael Burt
Brent Davis

EXHIBIT OO

WERNER U. SPITZ, M.D.

Forensic Pathology and Toxicology
23001 Greater Mack
St. Clair Shores, Michigan 48080

Phone: (586) 776-2060 ■ Fax: (586) 776-8722

Diane L. Lucke, B.S.
Administrative Assistant/Office Manager

E-mail: wuspitz@aol.com

October 12, 2007

TO: Donald Horgan

FROM: Werner Spitz

PLEASE NOTE:

Subcutaneous hemorrhage was found in Byers 331/93 slides numbered 1 and 17 and in slide number 2 with no name, labeled: AR State Crime Lab RC1

Ten (10) microphotographs are enclosed. These illustrate disruption of tissue, bacterial growth, early decomposition, and foreign bodies of vegetal and possibly some of insect origin.

The presence of these foreign bodies in the depth of the tissues, without evidence of hemorrhage, indicates that they were introduced into the tissue after death, most likely by repeated bites by large carnivorous animals, consistent with the appearance of the injuries on the body surface as documented in the postmortem photographs.

Byers 331/93

1 2 sections of skin with thin layer of epidermal keratin and sparse hair follicles.

One of the sections has 2-3 mm of fresh hemorrhage in subcutaneous fat.

2 Skin with epidermal keratin. Hair growth. No injury. No Pathological changes. 2 sections.

3 Skin with epidermal keratin. Hair growth. No injury. No Pathological changes. 2 sections.

4 Skin with epidermal keratin. Hair growth. No injury. No Pathological changes. 2 sections.

5. Rectum with 2 lymph nodes. No injury, no pathological changes.

Byers 331/93

6. Rectum with surface mucosal necrosis. No injury. No pathological changes.

- 7 Rectum unremarkable

- 8 Skin with thin keratin layer, sweat glands, no hair, no hemorrhage, no injury or pathological changes.

- 9 Skin same as 8 with one area of disrupted epidermis without associated hemorrhage, postmortem injury. (Photograph)

- 10 Skin with sparse hair follicles, no injury, no pathological changes. (could be from scrotum)

- 11 Skin with sparse hair follicles, no injury, no pathological changes. (could be from scrotum)

Byers 331/93

- 12 Disrupted, unidentifiable eosinophilic tissue with clusters of bacteria and superficial debris. Center has faint basophil (bluish) discoloration. More debris in depth of slide. Material in slide is generally thin strands of wavy tissue devoid of nuclei. Some of the debris suggests vegetal origin. Overall - necrotic subcutaneous tissue. (Photograph)
- 13 Skin with unidentifiable foreign bodies on surface and within epidermis at one edge of slide. Hairy, necrotic subcutaneous tissue with focal foreign material incorporated in surface. (Photograph)
- 14 Skin with sparse hair growth. Disrupted epidermis (focal) without hemorrhage.
- 15 Skin. Unidentifiable granular foreign body in subcutaneous fat and fibro-adipose tissue. Some of the foreign bodies may be of vegetal origin, some may be from insect. Wound in surface shows no hemorrhage but extensive bacterial overgrowth. (Photograph)

Byers 331/93

- 16 Hairy skin with epidermal disruption without hemorrhage

- 17 Fresh hemorrhage in subcutaneous fibrofatty and muscular tissue. No epidermis.

- 18 Fibromuscular and fatty subcutaneous tissue with unidentified deep seated circular foreign body. No hemorrhage. (Photograph)

- 19 Fibromuscular and fatty subcutaneous tissue. No epidermis

Branch

- 1 Skin, sparse hair. No injury. No pathological changes.
- 2 Skin, sparse hair. No injury. No pathological changes.
- 3 Skin, sparse hair. No injury. No pathological changes.
- 4 Skin. No hair growth. No injury. No pathological changes.
- 5 Penile skin, with corpus cavernosum. No injury.
- 6 Perineum, penile skin, with corpus cavernosum. No injury.
- 7 Congested skin, possibly perineal and penile. No injury. No pathological changes.

Branch

8 Perineal skin with subcutaneous fat and skeletal muscle. No injury. No pathological changes.

9 Perineal skin with subcutaneous fat and skeletal muscle. No injury. No pathological changes.

10 Pre-pubertal testis, 2 sections. No injury. No pathological changes.

Moore

- 1 Skin with subcutaneous fat. No injury. No pathological changes. Sparse hair growth.

Unidentified origin

- 2 Skin with sparse hair growth. Abundant fresh hemorrhage in subcutaneous fat.
- 3 Skin, sparse hair. No injury. No pathological changes
- 4 Skin, sparse hair. No injury. No pathological changes.
- 5 Skin from perineum including anus. No injury. No pathological changes.
- 6 Perineum. No injury. No pathological changes.
- 7 Pre-pubertal testis. No injury. No pathological changes.

EXHIBIT PP



Forensic Analytical Sciences, Inc.

22 October 2007

Dennis Riordan
Riordan & Horgan
523 Octavia Street
San Francisco, CA 94102

RE: Arkansas v. Echols, et al.
(FSD case 20070413)

Dear Mr. Riordan,

At your request, please permit this letter to serve as a summary of my preliminary findings regarding the above case. Although I have received a number of materials from you for review, the content of this letter is predicated upon the following items:

1. The autopsy reports of James Moore (ME-329-93), Steve Branch (ME-330-93) and Christopher Byers (ME-331-93) authored by Dr. Frank Peretti;
2. A CD containing over 1500 photographs (including multiple duplicates) of the scene of recovery of the bodies, autopsies and evidence;
3. Transcripts of two testimonies of Dr. Peretti (Bates 1779-1921 (indicated by you to have been from the Echols-Baldwin trial); no Bates stamp on the other (although indicated by you to have been from the Misskelley trial)); and
4. The transcript of testimony of Dr. Richard Jennings (Bates 3137-3169).

While you are amply aware of the circumstances surrounding the death of the three children, my understanding is as follows. The three eight-year old boys (Moore, Branch and Byers) were last seen alive in the late afternoon of May 5, 1993. They were subsequently reported missing a couple of hours later (approximately 8:00 pm) and a search was initiated by family, police and others near the same time. Their bodies were found at or near 1:30 pm on May 6 in a creek in a wooded area adjoining a bayou. No photographic documentation of the positions of the bodies prior to their removal from the creek is available. All three boys were nude with their hands bound to their ipsilateral ankles with shoelaces. Their clothing was recovered in the creek.

Again to briefly recap the findings of the autopsy reports, all of the boys had evidence of blunt force injuries (e.g. lacerations, abrasions and contusions) with the fatal blunt force injuries in all cases involving the head in which skull fractures, cerebral cortical contusions and subarachnoid hemorrhages were found. Two of the boys (Moore and Branch) also had evidence of drowning, including pulmonary edema and froth in the airways. In the absence of drowning, the blunt force injuries of the head sustained by Moore and Branch would have alone been fatal. Toxicological analyses were significant only for a therapeutic level of carbamazepine in Byers and a negligible level of ethanol in Moore.

The remainder of this letter will address my opinions about the causation of a number of injuries, presented in no particular order:

1. Each child has evidence of abrasions and contusions about the ears as well as perioral/intraoral injuries. Dr. Peretti opines that these injuries are “generally seen in children forced to perform oral sex” (transcript Echols-Baldwin trial, Bates stamp 1826). He further acknowledges that these injuries can result from a number of other mechanisms including punches, slaps and obstructing objects (e.g. hands, gags). The injuries in these areas are not in isolation, but often in proximity to other injuries. In consideration of the extensive blunt force injuries sustained elsewhere on the heads of these children, I do not think a specific mechanism (e.g. forced oral sex) can be assigned to any reasonable degree of medical certainty.
2. Anal dilatation is found in all three children. In some portions of the transcript this finding is included in the discussion of various injuries. Dr. Peretti acknowledges that this finding can be entirely attributed to postmortem relaxation. Further, he does not describe evidence of anal injury in any of the autopsy reports. Anal dilatation is a common postmortem finding and, in fact, has been studied (*Am J Forensic Med Pathol* 17(4): 289-298, 1996). Venous congestion was also a common finding in this study. Accordingly, there is no objective evidence of anal penetration in these cases.
3. The items potentially responsible for producing the scalp contusions, abrasions and lacerations are legion and the appearance of the cutaneous injuries doesn't particularly help narrow the field. However, the curvilinear skull fractures identified during Moore's autopsy are suggestive of an object with a similar curvilinear profile. The skull fractures in Branch and Byers autopsies are not as illustrative.
4. The “bell shaped” injury on the left side of the forehead of Branch was stated to have been “typical of a belt injury” (transcript Echols-Baldwin trial, Bates stamp 1836). I think this injury is more complex than that. The injury crosses the left brow ridge and is therefore on more than one plane with relative sparing of the most prominent region, the supraorbital rim. Belt buckles are rigid objects and I would expect an impact with a buckle would produce an injury above OR below

the supraorbital rim and likely involve the rim proper. Furthermore this injury appears to consist of overlapping curvilinear components which is not typical of most belt buckles in my experience.

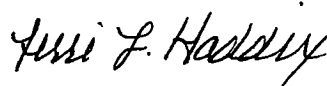
5. Injuries due to a serrated blade in each child are described in the transcripts of Dr. Peretti's testimony. The specific injuries include the diagonal injury on the right upper chest of Moore (exhibit 60A Echols-Baldwin trial, Bates stamp 1828), an injury on an extremity of Branch (exhibit 66B Echols-Baldwin trial, Bates stamp 1836) and associated with the genital and thigh injuries of Byers (exhibit 73C Echols-Baldwin trial, Bates stamp 1847). With regards to the injuries on Moore attributed to a serrated blade, my first and enduring impression is that these injuries more likely reflect abrasions produced by dragging along a roughened surface. The abrasions and contusions are typical of those I have encountered in people who have slid across a roughened surface (e.g. motor vehicle collisions). With regards to Branch's injury stated to have been a possible consequence of a serrated blade, I cannot find that this injury is documented in Dr. Peretti's report and therefore the location and dimensions of this injury are unknown. Similarly, I cannot find a description of this patterned injury in Dr. Peretti's report of Byers' autopsy. Although I cannot determine which photograph was designated exhibit 73C, I cannot find an injury in all of the submitted photographs from this autopsy that demonstrate a purported injury of this nature on Byers' inner thighs.
6. The injuries on Byers' buttocks, specifically the "cuts," photographically appear to represent abrasions rather than sharp force injuries. I think these injuries are also most compatible with dragging. In the discussion of the perianal injuries (exhibit 71C Echols-Baldwin trial, Bates stamp 1847), Dr. Peretti notes that "You have all this bleeding here in the soft tissues." Photographically there is not convincing evidence of hemorrhage into the tissues. An incision in this area (and subsequent photographic documentation) would have helped clarify this issue.
7. Sharp force injuries are described in Branch's left facial area. I think these are postmortem injuries (possibly attributable to animal depredation), superimposed upon antemortem injuries. The close-up photographs of the "cutting" injuries, which were described as entering the mouth, show characteristics which are not typical of injuries produced by a sharp edged implement. Specifically, the edges of the wounds are irregular and not cleanly incised and tissue bridges are evident within the depths of some of the wounds. As these injuries extend into the left side of the neck, I would expect to see some indication of hemorrhage within the anterior neck, rather than the described absence of abnormalities in the "soft tissues of the neck, including strap muscles, thyroid gland and large vessels . . ."
8. The sharp force injuries of the genital region and thighs in Byers' autopsy are remarkably similar in appearance: ". . . extensive irregular punctate gouging type injuries measuring from 1/8 to 3/4 inch and had a depth of penetration of 1/4 to 1/2 inch." Hemorrhage is noted to be associated with some but not all of these injuries. These injuries also do not have the cleanly incised edges that are typical

of injuries inflicted by a sharp edged implement. Additionally the skin surrounding this area has a yellow, bloodless appearance which is typical of postmortem abrasions. I believe the genital and thigh injuries are most compatible with postmortem animal depredation. That these are postmortem injuries would also account for the absence of blood on the banks of the creek where it was suggested in the transcript that this injury was inflicted prior to death.

9. A diagonal injury on Branch's left thigh was described as a patterned impression in the autopsy report. In his testimony (Echols-Baldwin trial, Bates stamp 1839-1840), Dr. Peretti described this area as a contusion attributed to an impact with some object. Again, photographs of this area do not clearly demonstrate the presence of hemorrhage and it is not clear why this was not described as a contusion initially. An incision (and subsequent photographic documentation) would have helped clarify this issue.
10. Curiously, Dr. Peretti states in his testimony (Echols-Baldwin trial, Bates stamp 1845) that there are postmortem injuries, however this is not further pursued either in direct or cross examination.

In summary, while I agree with the cause of death in these cases, I hold different opinions about the timing and causation of a number of the injuries. I have not completed my review of the submitted materials and I reserve the right to modify my opinions/findings. Please feel free to contact me should you wish to discuss the content of this letter.

Sincerely,



Terri L. Haddix, MD
Forensic Pathologist

EXHIBIT QQ

www.arktimes.com

Arkansas Times

ARKANSAS'S WEEKLY NEWSPAPER OF POLITICS AND CULTURE ■ OCTOBER 7, 2004

This week in **arts and entertainment**



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State fair time

CALENDAR PAGE 24

LIVE MUSIC PAGE 28

MUSIC MOVIES PAGE 30

RESTAURANTS PAGE 35

THE INSIDER

Home-grown media blitz

Brent Bumpers, son of former U.S. Sen. Dale Bumpers, convened a

Who's Who list of Democratic politicians at Doe's Eat Place on Oct.

to raise money for an independent media campaign supporting John Kerry's presidential bid.

According to an e-mail Bumpers sent his friends after the meeting, he

intended to launch the effort to raise the Kerry campaign indicated

media didn't spend a meaningful amount of money on Arkansas media this year.

We Arkansans, however, are not willing to roll over and concede the state — nor is the

Kerry campaign — and our mission and intent is to do everything

within our power

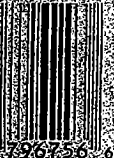
See page 3



'Every word was a lie.'

A key witness against the 'West Memphis 3' recants what she said in court.

BY TIM HACKLER • PAGE 12



Complete fabrication

A crucial witness says her testimony in the West Memphis 3 case wasn't true, but a product of police pressure to get results in the deaths of three children.

BY TIM HACKLER

Awoman who provided crucial testimony in the West Memphis 3 case now says her testimony was a complete fabrication.

Victoria (Vicki) Hutcheson says she was told what to say by West Memphis Police Department detectives, and that if she did not testify as instructed they could take her child away from her and implicate her in the slayings.

She also says the police hid her from defense attorneys after she testified in the first of the case's two trials, and that she knows of at least one piece of evidence destroyed by police.

Hutcheson's son Aaron, who was 8 years old at the time of the slayings and a close friend of two of the three little boys who were brutally murdered in 1993, is also recanting statements he made shortly after the murders. Aaron, now 18, says police "tricked" him and led him to say things that were not true.

Aaron's interviews with the West Memphis police were used to back up

their theory that the slayings were related to the occult and to tie the teen-agers — now famously known as the West Memphis 3 — to the killings.

Assistant Police Chief Mike Allen dismisses Hutcheson's account. "It appears that Vicki Hutcheson is trying to get her 15 minutes of fame," he said.

Allen noted that she'd testified under oath in the trial of one of the three — Jessie Misskelley Jr. — and that the defense had a chance to cross-examine her. "I don't know anything about Vicki Hutcheson or her motives for over 11 years later coming out and lying about the events of 1993, but I can say that the case gets more bizarre everyday."

Hutcheson testified only in Misskelley's trial. Damien Echols and Jason Baldwin were tried together later. Misskelley and Baldwin are serving life sentences. Echols was sentenced to die. All three are appealing.

Mara Leveritt, a *Times* contributor and author of a book, "Devil's Knot,"

about the case, puts Hutcheson's significance this way:

Hutcheson's interviews with police gave them a theory to build a case around. With that theory, and a confession from the 17-year-old Misskelley, whose IQ was subnormal, police had what they needed to arrest Damien Echols, 18, and Jason Baldwin, 16.

The prosecutor had little else in the way of solid evidence and Misskelley soon recanted his confession. Nonetheless, the confession was leaked to a Memphis newspaper, which put it on the front page, and it was raised by the prosecution in the trial of Echols and Baldwin.

Dan Stidham, defense attorney for Misskelley, said that Hutcheson's testimony in Misskelley's trial was critical in all three convictions. "Vicki Hutcheson's testimony was crucial to the prosecution because it was the only real corroboration that they had for Misskelley's ridiculous statement to the police. Even though she did not testify in the next trial of

Echols and Baldwin just two weeks after Misskelley's trial, everyone on the jury in Jonesboro knew about Misskelley's statement and Hutcheson's testimony.

"Hutcheson's recantation of her trial testimony was not all that shocking to me in that I have always known that she was lying. The real shocking thing to me about her recantation is the level of misconduct on the part of the West Memphis police. It obviously knew no boundaries." Stidham, a district judge in Paragould, no longer works on the case, but follows it closely.

On May 5, 1993, three 8-year-old boys — Michael Moore, Stevie Branch and Christopher Byers — were savagely murdered in a wooded area near Interstate 40 in West Memphis. One of the boys was sexually mutilated.

After a month passed with no promising leads, police turned to three local teen-aged boys — Echols, Baldwin and Misskelley — and charged them with

the murders. To establish a motive, the police and prosecutor said the three were devil worshippers and had killed the three younger boys as part of an occult ceremony.

In four recent interviews, Hutcheson said she has been carrying the burden of putting three innocent boys in the penitentiary and can no longer keep the truth bottled up.

"I lied, instead of trusting in God," she says. "I was raised in a Pentecostal home and I knew to do right but instead I let the West Memphis Police Department scare me to death."

Hutcheson became linked to the case on May 6 — the day after the boys had gone missing, but before their bodies had been found — when she and Aaron were at the Marion Police Department on unrelated business.

Marion police officer Donald Bray tried to strike up a conversation with Aaron, who at first wouldn't talk or make eye contact. But eventually Aaron warmed up to Bray and told him two of the boys missing in West Memphis were his best friends.

The children's bodies were found while Hutcheson and Aaron were still in Bray's office. After talking with Aaron alone, Bray notified the West Memphis police that the child had told him he witnessed the murders.

Aaron also told West Memphis Detective Bryn Ridge that five men at the murder were sitting around a fire and talked about God and that they liked the devil instead.

But in a recent interview, Aaron said he is no longer sure whether he actually witnessed the murders or whether his mind was playing tricks on him during a traumatic period. The West Memphis police paid little attention to the changing and contradictory accounts he told or to the possibility that he could have gotten his version of events from news reports and neighborhood gossip. (See sidebar.)

Bray met with Vicki and Aaron Hutcheson again a week later. He told her he suspected the killings were somehow linked to the occult or devil worshippers.

At this point, Hutcheson decided to "play detective," to try to determine if a boy mentioned by Bray — Damien Echols — was guilty.

Hutcheson denies accusations she was offered a reward to help the police. Bray, who might have known whether a reward was a factor, suffered a debilitating stroke shortly after the trials.



SKEPTICAL: West Memphis' assistant police chief, Mike Allen, doesn't believe Hutcheson.

knew Damien, she asked Jessie to introduce her to him.

Jessie did so and the three of them met in Hutcheson's trailer one evening. She reported on the meeting to the West Memphis police the next morning.

The police encouraged Hutcheson to bring Damien back to her trailer, and obtained her permission for them to install a listening device under her bed, with the microphone attached to a lamp in the living room area.

"They put the recorder under the bed," she says. "It was a fancy one with several reels of tape so that one would begin when the other was filled."

Police suggested she tell Damien she was interested in becoming a witch, and that she check out books on witchcraft from the library to leave in prominent places in the trailer. (She didn't have a library card, so one of the detectives lent her his.)

Hutcheson turned the recorder on when Damien showed up a few days later. Hutcheson says he just laughed when she said she wanted to become a witch.

She told him she had heard that he liked to suck blood. Damien said he encouraged such stories as a "mechanism" to keep people from prying into his life.

"What's a mechanism?" she asked. She says Damien replied, "It means leave me the fuck alone."

Damien never said anything incriminating during the conversation, Hutcheson says.

The police retrieved the tapes the next morning, and asked her the following day to come to the police station to listen to portions of them.

"They would play parts of the tape and then stop it and ask me a question like, 'Well what did he mean by that?'"

She said Ridge changed the tapes while Gary Gitchell, the department's chief detective, asked the questions.

"The quality of the tape was excellent," says Hutcheson. "You could hear Jessie, you could hear me, you could hear my roommate Christy. You could

Continued on page 15

'What I did was wrong'

The evolution of a critical story.

Vicki Hutcheson began backtracking from her testimony within months after the trials' conclusion.

Her accounts have changed over time.

Hutcheson made her first conflicting statement five months after the trials, when she still faced possible charges of perjury.

At that time, she told an attorney and a private investigator that, while she felt she'd gone to an "esbat," or witches' meeting, she had been drunk that night and could not recall whether Damien Echols and Jessie Misskelley had gone with her.

By the late 1990s, realizing that the statute of limitations on perjury might have expired, Hutcheson answered an interviewer's question on a web site concerned with the case, wm3.org.

When asked about "her story" to police, Hutcheson replied: "Well, I'm really concerned about legal issues right now with it. But basically, I said what the West Memphis police wanted me to say. And that was that I went to the meeting. The esbat meeting. It was all their stories."

She added, "I just want to tell Jessie and Jason and Damien that I'm sorry."

When asked for this article why anyone should believe her now, Hutcheson replied: "If they knew me now, they'd know that God is so important in my life, there is no way I could lie again. Or steal. Or do a lot of the things I used to do."

"For the first time since this all went down, I have a feeling of comfort. I feel better. What I did was wrong, and I hate that I ever did it. And I think that, if I had to do it over again, I would let them send me to prison, like they were saying. But back then, I was too scared."

Today, Hutcheson lives with friends in Northwest Arkansas, caring for their



HUTCHESON: Says she regrets her role in convictions of the West Memphis 3.

daughter who has cerebral palsy.

But she also has continuing problems with the law. She was jailed in September in Benton County and her probation revoked after a contempt of court citation. She was issued a ticket for a misdemeanor charge of theft by receiving and ticketed by the West Fork police for driving without a license. Hutcheson believes she is being harassed for speaking up about the West Memphis case. Coincidence or not, she was arrested 48 hours after the West Memphis police learned this article was being prepared.

Meanwhile, the three men who were convicted partly on Hutcheson's testimony continue to press their appeals.

Jessie Misskelley and Jason Baldwin both have claimed ineffective assistance of counsel and have sought the retesting of DNA in the case. Results on that retesting are expected this fall.

Lawyers for Damien Echols are also awaiting results of those tests. At the same time, however, they are preparing an appeal for Echols in federal court, since the Arkansas Supreme Court has ruled that he has exhausted most of his state appeals.

The 'lost' recording

When Hutcheson learned that a 17-year-old neighbor named Jessie Misskelley

'They messed with my words'

Today, Aaron Hutcheson isn't sure what he saw.



THE BOYS: Michael Moore, Stevie Branch and Christopher Byers.

Aaron Hutcheson has suffered from nightmares for most of the 11 years that have passed since his two best friends were killed in West Memphis. He recently joined the Army and hopes this will help him get his life on track.

What, exactly, Hutcheson told police officers in his first interviews will never be known. The whole affair began as a result of a coincidence.

Vicki Hutcheson was scheduled to report to the Marion police station on the afternoon of May 6, the day after the murders, but before the three bodies had been discovered.

(Hutcheson had taken a lie detector test after employees at the truck stop where she worked believed she might be responsible for an overcharge on a credit card. She was reporting to the police department to learn the outcome of the investigation. She was cleared, but also fired.)

Hutcheson brought Aaron with her to the police station. When a police officer learned that two of the missing boys were Aaron's best friends, he began to ask Aaron questions.

According to the officer, Donald Bray, who talked to Aaron when his mother wasn't present, Aaron told him things about the murder scene that only someone who had been there would know. This included the fact that two of the boys had drowned.

Is this accurate? Today, 11 years later, Aaron can no longer be sure he actually witnessed the murders.

There's no doubt that after several interviews he told police that he did, but after daily sessions with therapists, nightly bad dreams and the passage of 11 years, he says he simply no longer knows whether he was at the scene or whether, in his shock at the brutal slayings of his best friends, he only *thought* he had been at the scene.

There are many inconsistencies among Aaron's versions of what happened, leaving no doubt that he imagined or made up at least part of the story.

But was he at the murder scene?

Hutcheson said Bray told her that Aaron knew the boys had been hog-tied, and that only someone at the scene could have known that. Yet, in his first tape-recorded interview with police, on August 25, there was the following exchange.

First, Detective Bryn Ridge asks Aaron if any of his friends have told him what they think happened.

Aaron: Uh-uh (no).

Ridge: Nobody has told you?

Aaron: Un-un (no) nobody even knows that ... that I know what really happened. ... What I think happened.

Ridge: Do you know what really happened?

Aaron: I know most of it.

Ridge: Okay.

Aaron: I think they went down there, they uh, the man the men seen them, and that white tank top man, that had on the white tank top, he told the rest of the men to hold them or something and probably did it.

Ridge did not seem to pick up on the fact that Aaron was no longer sure he had actually seen the murders. Aaron says he knows what happened — "what I *think* happened."

He says he "thinks" the boys "went down there" and were discovered, and that the man in the white tank top "probably" killed them.

Eventually, Aaron gives an explanation for his knowledge of the case that the police choose to overlook — news media.

Ridge asks Aaron what he thinks should be done to the murderers when they are caught.

Aaron: I told my mom that the police should do what they did to Michael, Chris and Steve.

Ridge: Oh.

Aaron: 'Cause I ... they shouldn't really even do it to kids that age.

Ridge: Oh, what did you hear got done to the boys?

Aaron: They got rap ... they got raped and they got beaten to death, and they got

drowned.

Ridge: Oh.

Aaron: See they hog-tied them and then put bricks on them so they wouldn't float. [Note: The boys' bodies were held down by sticks, not bricks.]

Ridge: Oh.

Aaron: That's what I think, that's what I heard that said.

Ridge: Who told you that?

Aaron: Nobody. I just, I heard that from the news.

Ridge: Oh.

Aaron: And um, Diane ... Diane, Michael's mom, said that she seen his face and it had knife stabs on it.

Ridge: Oh.

Aaron: On him.

Ridge: Okay, you said that they were hog-tied, now how ... how do you think hog-tied is?

Aaron: They put their feet together and their arms together like that, 'cause I been took [to the] rodeo. They have kids and hogs and if you tie a hog you get two dollars. I ... I always know how to do that.

In this exchange, Aaron not only makes it clear that he, like many others in the area, had heard rumors that spread like wildfire about the case, he made a revealing mistake about the evidence. It was his description of how the boys were hog-tied.

He made the assumption most children or adults would make if they heard that someone had been hog-tied. He assumed the murderers had "put their feet together and their arms together ..."

It would seem that the terrible way that the boys were actually tied up would make a lasting impression on anyone. In fact, each boy was bound with his back bowed, left wrist tied to left ankle, and right wrist to right ankle.

'Happy in hell'

Aaron, who is now 19, is convinced the three boys were killed by Christopher Byers' stepfather, Mark Byers. West Memphis officials have acknowledged that Byers, a former drug informant, once was considered a suspect. He was never charged. Aaron contends Mark Byers hated kids.

Aaron is sure he told the police in the first interviews about Mark Byers. His mother also recalls that, but adds there were so many interviews that she can't remember details from them all. But she remembers one interview in particular.

She says Detective Gary Gitchell had both her and Marion police officer Donald Bray sign an "affidavit of silence" pledging themselves never to mention that Aaron had named Mark Byers.

"I learned later on there is no such thing as an affidavit of silence," says Hutcheson, "but that's how he described the document we signed."

At the trial of Damien Echols and Jason Baldwin, Echols' attorney, Val Price of



Chris Byers' mother and step-father, Melissa and Mark Byers, at a 1993 court hearing. Mark was initially charged.

t that Aaron had one of the killers. This Commercial-eb. 18, 1994, that ted Byers.

uld not have iden- being one of the skkelley had been iced if Misskelley the slayings.

shortly after the television before ig that three boys Jessie Misskelley.

's picture and of his lungs, fell ie did not do that.

I had to call Judy had to adminis- e knows the hell

ver seen Damien before, and that fied them was to nterviewing him. Hutcheson says she ce showed Aaron.

om but when the on to leave I saw n a poster board

a was in the mid- was much larger use Aaron iden-

ments or confessions.

The detectives failed to ask Aaron the questions that could have verified whether he had actually witnessed the slayings.

In his interview on June 8, Aaron told police he was in a tree and badly injured his back when he fell. "I could hardly walk or get up," he said.

In the version he gave police the next day, the killers hurt Aaron with a rock. The detectives neither asked Aaron about this discrepancy, nor asked him to show them the spots on his back or leg where he had been injured.

Nor did they check his wrists to see if there was any evidence of the ropes Aaron said the killers used to tie him up.

The police, then, chose to believe an 8-year-old boy's story that he watched five men kill and mutilate three other 8-year-olds; that the killers knew Aaron saw the killings, whereupon they grabbed him and tied him up, but he was then able to untie himself and outrun five adult killers.

With each police interview Aaron's story became more dramatic and less consistent.

In a version Aaron gave police after the Misskelley trial had started, he said he himself had been forced to dismember the body of his friend, Christopher.

In an interview with Mara Leveritt, which she reported in her 2003 book "Devil's Knot," Circuit Judge John Fogleman, who was the prosecutor in Misskelley's trial, admitted

concerned."

As a result, Fogleman did not subpoena Aaron for testimony.

At the time of the killings, Aaron was also sure that one of the five people he saw was a black man. The boy mentioned a black man with yellow teeth in a maroon-colored car in his very first interview with police.

Police and prosecutors ignored the statements, despite the fact that, at around 8 p.m. on the night the boys disappeared, a black man had entered a Bojangles Restaurant a mile from what would later be discovered to be the crime scene.

According to the restaurant's manager, the man was covered in blood and mud, and his trousers were soaked with water up to his knees. He entered the women's restroom where he stayed a considerable time.

The manager called the West Memphis police, but the officer who responded took a perfunctory report from the drive-through window and never entered the restaurant.

Though employees at Bojangles cleaned up the mess later that night, West Memphis police did find blood samples when they finally investigated a few days later. That evidence, however, was lost by the West Memphis Police Department.

Now a young man with intense, dark brown eyes, Aaron Hutcheson says today

WITNESS

Continued from page 13

hear Damien excellent because he was sitting right next to the lamp."

But, according to the West Memphis police, the tape was of such poor quality it was not usable. Later, the police said they lost the tape.

Today, assistant chief Allen says he'd listened to the tape and it was not intelligible. "I also asked several other individuals about what I remembered about the tape and they remembered the same thing — that there was loud music playing in the background and you couldn't hear what was said."

Hutcheson says that on the day she was called in to review the tape, she noticed that photos of Echols, Misskelley and Baldwin had been put above Gitchell's desk and were being used as a dart board.

"I said that was absolutely uncalled for and Gitchell laughed. And he thought that was funny that I would take that personally.... They already had their minds made up."

Playing detective

In Misskelley's trial, Hutcheson testified that she had personal knowledge that Misskelley, Echols, and Baldwin were involved with the occult.

Lacking solid evidence or leads and under intense public pressure, the police decided to pursue the "occult" angle. For that, they needed some shard of evidence to persuade the jury. According to Hutcheson, they chose her for the dirty work.

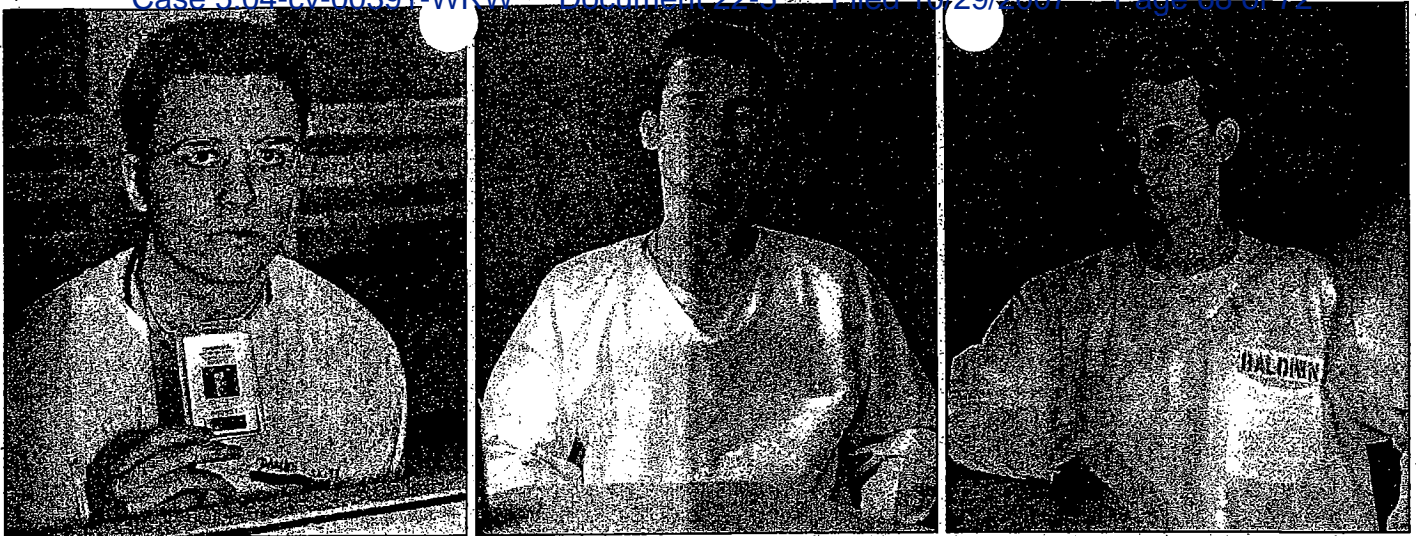
The highlight of Hutcheson's testimony was her description of a witches' meeting she said she'd been taken to by Damien Echols, with Misskelley along for the ride.

"Every word of it," she now says, "was a lie."

Hutcheson says she first thought it would be fun to cooperate with the police and "play detective." Within a few weeks, though, she had become enmeshed in a web she'd never imagined.

Hutcheson's testimony was a repetition of a statement she made to Detective Ridge on May 28. In this statement Hutcheson appears to tell the police without prompting that she attended an "esbat" (a witches' meeting) and that Damien Echols took her there. She said Misskelley went along.

Hutcheson says this May 28 statement followed a number of earlier interviews, of which there are no records. In those earlier interviews, she says, police told her



CONVICTED: Damien Echols, Jessie Misskelley and Jason Baldwin are appealing their convictions.

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CREATE YOUR OWN

WITNESS

Continued from page 15

Hutcheson was susceptible to police pressure at that point in her life. She had been a suspect in another crime. "I was just ... I didn't know what to do," she remembers.

In 1992, Hutcheson and her second husband moved from Fayetteville, where she'd worked as a legal secretary, to West Memphis. They moved into a comfortable three-bedroom home.

But then, she says, her husband walked out on the family, and Hutcheson and her two sons had to move into a house trailer.

She describes her situation this way: "My husband had just left me. I'm in a town I don't know. I have no money, a truck about ready to break down and a job on the line. I've got a child that's ADD. I'm paying \$90 for his medications.

"There were times that I got down on

my knees and said 'God, what is it? What have I done to deserve this?'"

The witches' meeting

Hutcheson said the "witches' meeting" was dreamed up by Jerry Driver, a county juvenile officer, at a meeting detectives held at Bray's storage facility in Marion.

(Hutcheson says that such meetings were part of a pattern. Rather than at police headquarters, they interviewed her either at a commercial storage facility owned by Bray, or at the Crittenden County Drug Task Force office, several blocks from police headquarters.)

Driver considered himself an expert on the occult, and had been watching Echols, whom he considered suspicious, for years. Gitchell and Bray were also at the meeting, Hutcheson says.

"Well, we were sitting there and he [Driver] goes, 'Okay, what really

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needs doing here is, I guess that maybe Victoria goes to one of those meetings they have — an esbat.

"I'm not stupid, I knew what they wanted me to do. But I had no idea what an esbat meeting was, so he defined it for me."

Hutcheson says that when detectives tape recorded interviews with her, "they would shut the tape off, and tell me, 'No, that's not how it happened, Victoria. You come up with something better.'"

She says she believed their threat to implicate her in the murders if she did not agree to lie on the stand.

"Gitchell said to me, 'Don't you understand you could be the link between the two? On the one hand, you knew Michael and Christopher. And on the other hand, you know Jessie, and you've had Damien over to your house.'"

"Of course, Damien was at my house for the police, but now they've got me as knowing Damien."

Even when she agreed to comply, Hutcheson says, the detectives were worried that she might flub the testimony.

When the Misskelley trial began in January 1994, Hutcheson says she was still so nervous she did not know if she would be able to pull it off either, though she'd been prescribed Valium.

On the day she was to testify, she says, she was kept in the judge's chambers while the trial proceeded.

"Gitchell and Ridge came back from time to time and they would ask, 'Are you sure you're going to be okay, do you need to take some more medication?'"

At one point she told them she did, so one of the detectives went to the spectators' area in the courtroom and solicited Valium tablets from the mother of one of the victims.

"We were all given the same thing, you know. We all went to East Arkansas Mental Health Clinic."

Hutcheson added that Brent Davis, one of the prosecuting attorneys, "would come back to check on me and say 'remember you're going to say this or that.'"

She also claims that assistant chief Allen, then a West Memphis detective, told her officials would arrange for her to leave town after the first trial, because they did not want her or Aaron available to defense attorneys in the second trial.

"They told me I would have to go to a place where defense attorneys couldn't find me — and I was all for that!"

She says she was given directions to a motel in Memphis where she and Aaron stayed during the second trial.

Today Allen says, "I never had any knowledge of Vicki Hutcheson being placed in a motel." He also says he never saw Jerry Driver at the police department during the investigation. He was a juvenile officer in Marjon and had "very little" to do with the case.

Hutcheson says that when detectives tape recorded interviews with her, "they would shut the tape off, and tell me, 'No, that's not how it happened, Victoria. You come up with something better.'"

A question of motives

If Hutcheson lied in 1994, why should she be believed today? And what moved her to come forth now, 10 years after the trials? There are reasons why Hutcheson might be better off by remaining silent.

Since the 1993 murders, Hutcheson has been to prison four times, for using drugs and writing hot checks. She is still on parole.

It is unlikely her coming forward now will make her popular with the law enforcement communities that have so much control over her life.

Hutcheson says she is speaking out now because of the ministry she encountered in prison. "I learned some principles in my life," she says. "And I learned, in order for God to forgive me, I had to clear my conscience."

In April, Hutcheson was talking with her Fayetteville attorney, Mima Cazort, about a Social Security issue. Cazort was questioning Hutcheson about her health when Hutcheson broke down and said she had been carrying around a secret that she thought had taken a toll on her health.

Hutcheson told Cazort her story, and said she wanted to do what she could to free three innocent boys from prison. Cazort asked Hutcheson if she wanted to go public with her story, and she replied that she did.

"Jerry Driver planted those boys ... And I guess I implicated Jessie, because I said I know Jessie and Jessie knows Damien ..."

"I guess I'm the whole reason Jessie is locked up. And that makes me very, very — I can't tell you what it does to me."

"And that's why I'm doing this now. I have to clear my conscience not just for me but for God. And I can't live like this anymore, with this on my shoulders."

"I know what I did was wrong, and I should have stood up to the police and done what was right no matter what."

"They had me so scared, and I seen what

they were doing.

"I seen 'em set up three boys for murder, and not just one murder but three. And getting by with it."

"And who was I? They were going to put me right in the middle of it."

"I was scared. I mean I was scared to death."

Tim Hackler is a writer who lives in Fayetteville.

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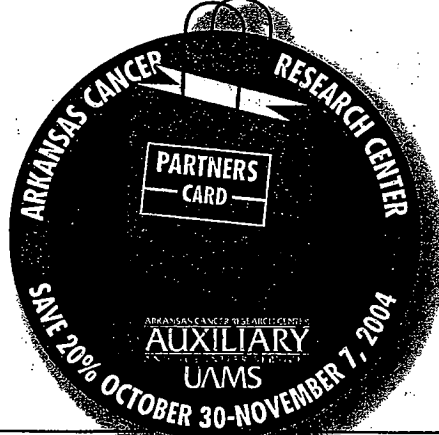
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THIS IS A CAPITAL CASE

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

DAMIEN WAYNE ECHOLS,)	Case No. 5:04CV00391-WRW
Petitioner,)	<u>DECLARATION OF DONNA MEDFORD</u>
vs.)	
LARRY NORRIS, Director,)	
Arkansas Department of Corrections,)	
Respondent.)	

I, Donna Medford, hereby state and declare under penalty of perjury as follows:

1. I am the mother of Jodee Medford.
2. Jodee and I were witnesses for the prosecution at the state court trial in the case of *Arkansas v. Damien Wayne Echols and Charles Jason Baldwin* in 1994.
3. I am informed and believe that during the ^{1994 DM}1993 trial, my daughter testified that she had attended a softball game in West Memphis in, Arkansas, in May of 1993, and that at that time she heard Damien Echols state that he had killed three

little boys and that before he turned himself in he would kill two others.

4. In my testimony at the ^{1994 DM} ~~1993~~ trial, I truthfully stated that I had been at the softball game described in my daughter's testimony, and that after the game, she informed me of Mr. Echols's statement concerning the three boys.

5. I presently recall that I learned of the statement when I was driving home with Jodee, Jackie (another of my daughters), Katie Hendrix (my niece), and another girl, Christy Van Vickle. Jodee and others described the statement to me at that time.

6. When I heard the description of Mr. Echols's statement during the drive, I told the girls to forget about it. I recall that at the time, I did not believe it possible that Damien was actually confessing to the crime in front of so many people, but was instead simply trying to draw attention to himself. It was for that reason that I did not report the girls' statement to anyone else until I learned from television reports that Mr. Echols had been arrested.

Executed this 4 day of October, 2007, at Crittenden County, Arkansas.


Donna Medford