

THIS IS A CAPITAL CASE

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

DAMIEN WAYNE ECHOLS,) Case No. 5:04CV00391-WRW
)
Petitioner,)
)
vs.)
)
LARRY NORRIS, Director,)
Arkansas Department of Corrections,)
)
Respondent.)

**PETITIONER'S JANUARY, 2008 REPORT RE:
STATUS OF STATE COURT PROCEEDINGS**

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Pursuant to this Court's Letter Order issued on November 21, 2007, petitioner Damien Echols hereby reports the following concerning the status of state court proceedings relating to this matter:

Petitioner's motion for DNA testing and for relief from his state court convictions filed pursuant to Arkansas Code Section 16-112-201, et seq. is presently pending before Judge Charles David Burnett of the Craighead County Circuit Court. Jason Baldwin and Jesse Misskelley, the state court defendants who, like petitioner, were tried and convicted¹ in connection with the incident placed in issue by petitioner's Second Amended Petition for a Writ of Habeas Corpus filed in this Court on October 29, 2007, have filed their own DNA testing motions and are also parties to the section 16-112-201, et seq. proceedings. Unlike Echols, however, both Baldwin and Misskelley have yet to litigate collateral attacks on their convictions under Arkansas Rule of Criminal Procedure 37.

Most of the testing contemplated by the Craighead County Circuit Court's First Amended Order for DNA Testing filed on February 23, 2005 has been completed.

In the wake of this Court's November 21, 2007 Letter Order, undersigned counsel has submitted a written proposal to Brent Davis, the Craighead County Prosecuting Attorney representing the state of Arkansas, concerning future scheduling in the section 16-112-201, et seq. proceedings. Specifically, we have

¹ Baldwin was tried with Echols; Misskelley was convicted in a separate proceeding earlier in 1994.

proposed that counsel for petitioner Echols and Mr. Davis agree on a schedule pursuant to which:

(1) Petitioner's counsel would file an amended motion under Arkansas Code Section 16-112-201, et seq. in the Circuit Court by February 15, 2008, with supporting exhibits and a legal memorandum. The motion and related materials would address, among other things, petitioner's position as to the need, if any, for additional testing of items that have been identified in the First Amended Order for DNA Testing and/or been the subject of discussions among the parties, as well as the significance of the scientific test results returned to date.

(2) Mr. Davis's office would, after a reasonable time, file its responsive pleading, following which petitioner's counsel would file any reply.

(3) By late spring, 2008, the parties would appear before Judge Burnett to address the issues raised by the amended motion and related pleadings, including the scope of an evidentiary hearing on disputed factual issues.

Because Messrs. Baldwin and Misskelley are now pursuing post-conviction remedies in Arkansas which petitioner has already exhausted, they may not be subject to the same time schedule proposed in connection with petitioner's DNA motion and described above.

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