

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DIVISION

FILED

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PETITIONER
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CHARLES JASON BALDWIN

vs.

No. CR 93-450A

STATE OF ARKANSAS

RESPONDENT

**PETITION FOR WRIT OF HABEAS CORPUS AND SUPPLEMENT
TO MOTION TO PRESERVE EVIDENCE AND FOR
ACCESS TO EVIDENCE FOR TESTING FILED
BY PETITIONER**

COMES NOW THE DEFENDANT AND PETITIONER, Jason Baldwin, through his attorneys Blake Hendrix and John Philipsborn, petitioning for the issuance of a Writ of Habeas Corpus, and supplementing his Motion to Preserve Evidence and For Access to Evidence For Testing and renewing that motion, alleges and states as follows:

1. This Petition and Supplemental Motion incorporates a petition for writ of habeas corpus, and the reiteration of Baldwin's March 9, 2001 Motion to Preserve Evidence and For Access to Evidence For Testing (hereafter, "March 9,2001 Motion"). In addition, Baldwin supplements his March 9,2001 Motion by bringing this Petition and Motion under Arkansas Code Annotated § 16-112-201, et seq., which provides Baldwin with a statutory basis on which this Court can grant habeas corpus relief, and provide access to evidence for testing, while entering necessary orders to preserve evidence.

2. This Petition and Supplement to the March 9,2001 Motion, is based upon Article II, Sections 8, 9, 13, and 29, of the Arkansas Constitution, the Fifth, Sixth, Eighth,

and Fourteenth Amendments of the United States Constitution, and all applicable statutory provisions including, but not limited to, Ark. Code Ann. § 16-112-201 et seq.

3. Baldwin relies upon the Constitution of Arkansas, the United States Constitution, and all currently available statutory provisions, including, but not limited to, Ark. Code Ann. § 16-112-201 et seq., to assure a full and fair review of the proceedings which resulted in his conviction, and life sentences.

4. Baldwin is aware that his former co-defendant, Damien Echols, has recently filed a "Motion for Forensic DNA Testing" partially based on Ark. Code Ann. § 16-112-201 et seq., seeking specific testing of biological material through Short Tandem Repeat ("STR") and/or Mitochondrial DNA testing. Baldwin had previously moved for retesting of a number of different materials, including, but "not limited to hairs, fibers, blood, semen and/or DNA samples." (From Baldwin's March 9, 2001 Motion at p. 2.) By and through this petition, and the related motion, including the Supplement, Baldwin seeks testing, and review of evidence beyond the "biological evidence" referred to in co-defendant, Damien Echols' Motion for Forensic DNA Testing. (See Echols Motion at p. 35.) To the extent and degree necessary, under the current Arkansas statutory scheme, Baldwin is prepared to join in motions and requests made by former co-defendant Damien Echols (Case No. 93-450 and 450(A)), as well as in the petition and motions brought by his former co-defendant Jessie Lloyd Misskelley, Jr. (Case No. 93-47, filed on September 27, 2002). Baldwin alleges, however, that his petition and motion requests a wider range of relief than those filed either by Echols or Misskelley.

I. THIS PETITION IS BASED ON CONSTITUTIONAL AND STATUTORY GROUNDS.

5. Based on the United States Constitution, the Arkansas Constitution, and applicable statutory authorities, including Ark. Code Ann. § 116-112-201 et seq., Baldwin

is entitled to the issuance of a Writ of Habeas Corpus and the grant of his Motion to Preserve Evidence and For Access to Evidence For Testing, as well as this Supplement.

(A) **Under the Fifth and Sixth Amendments of the United States and Arkansas Constitutions, Baldwin is Entitled to Relief.**

6. Baldwin is entitled to the issuance of a Writ of Habeas Corpus, and the granting of his Motion to Preserve Evidence and For Access to Evidence For Testing, as well as this Supplement to that motion, based on the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and Article II, Sections 8, 9, 13, and 29, of the Arkansas Constitution.

(B) **Under Applicable Arkansas Statutes, Including Ark. Code Ann. § 16-112-201 et seq., Baldwin Is Entitled To Relief.**

7. Ark. Code Ann. § 16-112-102(a)(1)(A) and (B), et seq., provide that prior to consideration for habeas relief, the petitioner, or moving party, who satisfies the statutory criteria is entitled to acquire evidence and materials related to his case, and to have them tested or retested. As demonstrated below, Baldwin satisfies all of these statutory requirements. (See Ark. Code Ann. § 16-112-201 et seq.)

8. Through the filing of this petition, Baldwin is entitled to relief based on Ark. Code Ann. § 16-112-201(a). Baldwin meets the requirements of Ark. Code Ann. § 16-112-201(a)(1) and (2) based on the following: (a) his direct appeal has been concluded; (b) he has repeatedly asserted his innocence of the offenses for which he was convicted; (c) the scientific evidence not available at trial establishes his actual innocence; and (d) the scientific predicate for the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing

evidence that no reasonable fact-finder would find him guilty of the underlying offence. (Ark. Code Ann. § 16-112-201(a)(2).)

9. Under Ark. Code Ann. § 16-112-202(a)(1), Baldwin is entitled to “make a motion for the performance of fingerprinting, forensic deoxyribonucleic acid testing, or other tests which [have] become available through advances in technology to demonstrate [his] actual innocence.” He is making such a motion here.

10. The evidence to which Baldwin seeks access and retesting was secured in relation to the trial which resulted in his conviction. Since the time of trial, the State has had custody of this evidence. Thus, Baldwin meets the requirement of Ark. Code Ann. § 16-112-202(a)(1)(A). In the alternative, or in addition, chain of custody can be established. (Ark. Code Ann. § 16-112-202(b)(2).)

11. The crime for which Baldwin was convicted occurred in 1994. In the eight years since Baldwin’s trial, the courts, including the United States Supreme Court, have recognized significant advancements in forensic science testing techniques, tests and expertise. Certain of these scientific advancements and testing techniques were not available at the time of the trial, and are directly applicable to the evidence at issue. Thus, Baldwin satisfies the requirement contained in Ark. Code Ann. § 16-112-202(a)(1)(B). In the alternative, the testing sought here was not available as evidence at the time of trial, even if the technology was in existence, and could have been employed. (Ark. Code Ann. § 16-112-202 (b) and (c).)

12. Baldwin meets all of the requirements of Ark. Code Ann. § 16-112-202(b) for a *prima facie* case for testing, or retesting, of evidence utilizing scientific advancements to demonstrate Baldwin’s actual innocence. Baldwin is entitled to access to the evidence described throughout this pleading because identity was an issue in the trial which resulted in his conviction. In addition, the evidence at issue has been subject to a chain of custody “to establish that it has not been substituted, tampered with,

replaced, or altered in any material aspect.” (See Ark. Code Ann. § 16-112-202(b)(1) and (2).)

13. Baldwin is entitled to a court order to require testing, or re-testing, of the evidence at issue under Ark. Code Ann. § 16-112-202(c)(1) which provides, “The court shall order that the testing be performed if: (A) A *prima facie* case has been established under subsection (b) of this section [see above]; (B) The testing has the scientific potential to produce new noncumulative evidence materially relevant to the defendant’s assertion of actual innocence; and (C) The testing requested employs a scientific method generally accepted within the relevant scientific community.” [Emphasis added.]

Baldwin satisfies all of these elements based on the following facts:

- (a) Identity was an issue at his trial;
- (b) He has repeatedly contended that he was incorrectly identified as a perpetrator, and claims his actual innocence;
- (c) The evidence to be tested has been the subject of a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect;
- (d) The testing has the scientific potential to produce new, non-cumulative evidence materially relevant to Baldwin’s claim of actual innocence;
- (e) The testing requested employs scientific methods generally accepted within the relevant scientific community.

14. In sum, Baldwin satisfies all the requirements contained in the applicable Arkansas statutes. Baldwin’s claims are authorized by Ark. Code Ann. § 16-112-201, and he meets all of the conditions specified in Ark. Code Ann. § 16-112-202.

15. Further allegations of fact supporting these allegations are set forth below in the sections immediately following.

II. STATEMENT OF FACTS

16. On March 18, 1994, Baldwin was convicted in Craighead County of three counts of murder in Case No. CR-93-450A. Baldwin was sentenced to life imprisonment. (Reporter's Transcripts of Trial Proceedings, hereafter "RT" at 2761.) The facts and procedural history of Baldwin's case support his claims and demonstrate his entitlement to relief.

(A) Pretrial Facts and Procedural History.

17. Petitioner was arraigned on August 4, 1993. He was represented by appointed attorneys Ford and Wadley when he entered not guilty pleas that day. (RT at 15.) That same day, biological and other materials were ordered taken from him, including, but not limited to: handwriting samples; blood; saliva; pubic hair; and fingerprints. (RT at 17.) Baldwin's counsel indicated that the State had no objections to the severance of co-defendant Jessie Misskelley, Jr., from Baldwin. (RT at 31.) This Court granted the severance. (RT at 32.) At defense request, the Court ordered that copies of all photographs be released by the State Medical Examiner. (RT at 32.)

18. On September 27, 1993, Baldwin moved for severance from Echols stating that his defense expected that its position would be antagonistic to that of co-defendant Echols. (RT at 93-95.) Attorney Paul Ford, representing Baldwin, stated that Baldwin's defense was that he was innocent, and he was not present at the scene of the crimes. (RT at 101-102.)

19. Baldwin's counsel brought motions to discover tests and to inspect all the physical evidence. Prior to the commencement of evidence, Baldwin's counsel specifically requested review of hair and fiber evidence. His trial counsel represented that

they were told that "...there will not be any DNA or serological evidence ... against my client [Baldwin]." (RT at 142-143.)¹

20. During pretrial hearings in June 1993, State Crime Laboratory Criminalist Lisa Sakevicius was called to establish the reasons for the State's searches of the Baldwin and Echols homes, and for its review of fiber evidence. She testified that it was a long shot for there to be any matter of evidentiary value available, particularly as far as fiber evidence was concerned, because the victims' clothing had been recovered from the water. She also testified that she had recovered a variety of fibers during the searches, including one from a toilet seat cover, and another from a red robe. (RT at 207.)

21. In connection with Baldwin's claim of actual innocence, during pretrial motions, attorney Paul Ford moved to question former co-defendant Jessie Misskelley, and co-defendant Damien Echols, as to whether Baldwin was involved with the crimes. (RT at 132.) The motion was denied.

22. Baldwin's defense also moved to exclude three sticks found at the crime scene on grounds that their admission was improper. The Court overruled this objection, indicating that because such sticks could have been used to inflict the injuries, evidence that they had been removed from the crime scene was relevant. (RT at 401-403.) Similarly, Baldwin's counsel moved to exclude testimony concerning a knife found by an Arkansas State Police scuba diver in the lake behind Baldwin's residence on grounds that it was not relevant because it could not be connected to the crimes or to Baldwin, but the Court eventually admitted not only the knife, but also testimony concerning the manner in which it was found. (RT at 407.)

¹As noted below, evidence implicating Baldwin was in fact introduced, but this evidence was circumstantial. No specific serological or DNA evidence actually connected Baldwin to these crimes.

23. Baldwin's counsel moved to exclude testimony concerning the allegation or theory that there was a sexual assault connected with the homicides. The Court overruled Baldwin's objections ruling that the testimony was relevant. (RT at 426-427.)

(B) Trial Facts and Procedural History

24. The opening statements in Baldwin's trial for the May 10, 1993 murders of Chris Byers, Steve Branch, and Michael Moore began on February 28, 1994. In those statements, the Baldwin defense made it clear that it disputed the State's allegation that Jason Baldwin was in any way involved in the homicides. (RT at 701-701.)

25. The early part of the prosecution's case consisted of testimony from the parents of the victims who testified about their searches for the victims. Patrol Officer Regina Meek, of the West Memphis Police Department, testified that she searched the wooded area after the boys had been reported missing. Early in the investigation, Detective Mike Allen of the West Memphis Police Department also traveled with a colleague to the wooded area near the Blue Beacon Truck Stop. At approximately 1:30 p.m. on March 6, 1993, he discovered the body of Michael Moore. The remains of the two other boys were located downstream. (RT at 805-806.) He noted that part of the bank near the water was slick and devoid of leaves. (RT at 807.) He thought he had seen a tennis shoe imprint near the first body. (RT at 807.) He also reported participating in an investigation at the Bojangles Restaurant, where an African American male had been reported tracking blood into the restaurant the night before the boys were located. (RT at 810.)

26. Detective Bryn Ridge testified about the processing of the scene, including the taking of a number of photographs, and the acquisition of various pieces of clothing and debris found near the bodies. (RT at 871-873.)

27. Detective Ridge described the manner in which clothing was impounded and dried, prior to being bagged. (RT at 907-911.) Some items of evidence were described as having been left to dry in offices at the police department. (RT at 918.)

28. Various cuttings of clothing were taken from the pants, and shirts, found at the crime scene. (RT at 957-962.) These cuttings were submitted for laboratory processing. Attempts were made by criminalists and evidence technicians to match known and unknown footprints. (RT at 963-973.)

29. Dr. Frank Peretti testified as to his opinions on the manner and causes of death of the three victims, indicating that there could have been sexual abuse of the young persons prior to their death. (RT at 1058, for example.) He opined that some of the knives shown to him in court could have inflicted the wounds that he viewed on all three bodies. He also indicated that he did not detect any sperm consistent with sexual activity during the processing of the remains. (RT at 1097-1098.)

30. Michael Carson, a juvenile, was held in the same juvenile detention facility as Baldwin after the latter's arrest. According to Carson, Baldwin initially denied any involvement in the murders, and then later Baldwin 'went into detail about it' indicating that he had dismembered the bodies and had sucked blood out of one of the victims. (RT at 1168-1169.)

31. Detective Mike Allen testified that on November 17, 1993, a knife was recovered by a state police dive team. This knife was eventually marked and admitted as State's Exhibit 77. (RT at 1202-1203.)

32. Detective Griffin of the West Memphis Police Department played a part in the recovery of the children's bicycles, which had been placed in the bayou at the east end of a major water pipe. (RT at 236)

33. Detective Gary Gitchell was questioned about the acquisition of the knife which belonged to John Mark Byers, and which was reported to have blood on it that matched the victim Chris Byers. (RT at 1256-1268.)²

34. Several witnesses reported having seen Damien Echols and his girlfriend, Domini, walking in the vicinity of the Blue Beacon wearing black clothing in early May – at least one witness put this date as the date of the young boys' disappearance. (RT at 1281-1231.)

35. Arkansas State Laboratory Forensic Serologist, Kermit Channel, reviewed some of the evidence: removing a possible tissue sample from each of the two ligatures marked Q4 and Q39, and testing pants and other clothing for the presence of stains, including items Q6 and Q10. While he did not get any clear indication of the presence of biological material, he did find some areas that might have contained biological stains. He sent these materials to Genetic Design, which had the capacity to conduct DNA testing. (RT at 1327-1328.) Though he had received some positive reactions with some of his presumptive tests, he could not tell whether semen was present.

36. Mr. Channel also testified that a shirt found at Jessie Misskelley's house had blood on it that could have come from the victim Michael Moore, or from Jessie Misskelley. (RT at 1331-1332.)³

²Testimony on this point was that both John Mark Byers and Chris Byers had the same D.Q. Alpha markers. (RT at 1268-1269.)

³This evidence is discussed here because of its importance to the motion at issue. Several matters were raised by the parties during Mr. Channel's testimony. (RT at 1332-1338.) The defense urged the Court to allow presentation of testimony regarding testing of potential alternate suspects. Various actual and/or potential suspects had given statements, and physical evidence, including clothing and knives, to investigators during the investigation. Some contained what might have been blood. This evidence was the subject of discussion, and is pertinent here in so far as there is a claim of actual innocence proffered by Baldwin that requires the retesting of material, clothing, and any

37. Michael De Guglielmo was the Director of Forensic Analysis at Genetic Design. Several items of evidence were sent to Mr. De Guglielmo's laboratory for review, including ligatures Q-4 and Q-39, as well as cuttings from jeans contained in Q-6 and Q-10. His laboratory also ran some tests on defense Exhibit 6, a knife. The laboratory found nothing to connect Baldwin to the homicides (RT at 1395). However, they did find some blood on Exhibit 6, as well as what was characterized as "most likely" DNA that came from sperm cells in the cuttings from the pants. (RT at 1390.) On redirect, De Guglielmo testified that there had been no 'match' of anyone as a result of biological materials testing. (RT at 1397.)

38. Several additional law enforcement officers were called in the prosecution case, including Jerry Driver, Chief Juvenile Officer in Crittenden County who stated that he had seen the three Defendants together, at some point, while he was investigating a case. Lieutenant Sudbury testified that when he went to the Damien Echols residence in June of 1993, and he had found Jason Baldwin there. (RT at 1405-1409.) Officer Durham of the West Memphis Police Department described an extensive statement that he took from Damien Echols on May 10, 1993. (RT at 1423.)

39. Lisa Sakevicius, Criminalist with the Arkansas State Crime Laboratory, testified about: her examination of the ligatures; finding a green polyester fiber on a Cub Scout cap (references are to Exhibit E-7 and E-5, trial exhibits 85 and 8); and the comparison between the green fiber found on the Cub Scout hat and a cotton polyester blend shirt that may have come in contact with some of Damien Echols' clothing. (RT at 1468-1470.) She also testified about the possible transfer of fiber from a red robe found in the Baldwin home to a pair of pants pertinent to the case. (RT at 1470-1471.) Finally,

other evidence seized from potential alternate suspects. The pertinent testimony is at RT 1348-1378.

she testified that a single unidentified Negroid hair was found on a sheet used to recover the Byers' child. (RT at 1471-1472.)

40. Ralph Turbyfill, the Chief Latent Fingerprint Examiner for the Arkansas Crime Laboratory reviewed a bike reflector and a small toy Sheriff's star and found no prints of any value. A similar fingerprinting effort was made on certain sticks submitted to him, with similar results. (RT at 1507-1510.)

41. Several witnesses were called in an attempt to establish what sorts of knives might have been possessed by Damien Echols. (RT at 1511-1524.) The jury then heard lengthy testimony about statements given by Damien Echols on May 10, 1993 from Detective Bryn Ridge (beginning at RT 1550). Mr. Echols' defense was that he had an alibi, which included his involvement in a long telephone conversation on the night of the crimes. (RT at 1587.)

42. The prosecution also called Dale Griffis, a 'consultant' who works with 'non-traditional groups,' who testified that in his review of the crime scene photographs, the autopsy reports, and based on his knowledge of the case, he saw some "possibility of occultism" involved. (RT at 1657.) Griffis had been a law enforcement officer in Ohio. (RT at 1774, et seq.)

43. The prosecution also called witnesses to establish that they had heard Mr. Echols in the presence of Jason Baldwin, stating that he had killed the three boys or words to that effect. (RT at 1812-1831.)

The Defense Case

44. The defense began its case by presenting alibi witnesses, including Pam Hutchinson, mother of Damien Echols. (RT at 1847, et seq.) Ms. Hutchinson's testimony covered a number of matters, including Echols' prior medical and psychiatric treatment, his interest in religion and other matters, and his possession of a knife collection at one point in his life. Michelle Echols also provided her brother with an alibi.

Damien Echols took the witness stand (RT at 1929) and denied any involvement in the killings. (RT at 1957-1958.) He was examined at length about his possession of various items evidencing an interest in witchcraft, and other matters, as well as his statement to law enforcement officers.

45. The defense also called Christopher Morgan, then a resident of Oceanside, California, who admitted that at one point he had stated that he had killed the three boys, but now denied having done so.

46. During further defense evidence, Detective Gary Gitchell, testified about the manner in which certain evidence was acquired by the police, including the Byers knife marked as Evidence Item E-6. John Mark Byers, stepfather of one of the victims, took the stand, admitting the knife was his. While contending it had been used in a variety of ways, he could not account for the presence of human blood on it. (RT at 2195.) Mr. Byers also explained that on the day of his stepson's disappearance he had started looking for Chris Byers at about 6:15 or 6:30, had spoken with Officer Regina Meek at his house at about 8:10 p.m., and had continued searching into the night. (RT at 2200-2205.)

47. Bojangles' Restaurant Manager Marty King stated that on May 5 or May 6 of 1993, a black man had been found seated in the women's restroom, with blood dripping off his left forearm, and that blood was left against the wall. There was mud on his feet. An officer finally appeared and took a report. (RT at 2212.) Eventually detectives came by to take blood scrapings off the wall, though they did not pick up a bloody roll of toilet paper. (RT at 2216.)

48. The defense also presented expert testimony in an attempt to rebut evidence concerning the testimony from prosecution expert Dale Griffis. (RT at 2326-2301.) Similarly, evidence from trace evidence analyst Charles Lynch was offered in an attempt to dispute some of the prosecution's pertinent evidence.

49. In addition to further defense testimony about Jason Baldwin, who was at school on the day of the killings, the Baldwin defense called Dr. Duke Jennings, who, as a sitting member the State Crime Lab Board, presented rebuttal to the testimony of Dr. Peretti, on the question of time of death.

The State's Rebuttal

50. Further testimony from Criminalist Lisa Sakevicius and Alabama Department of Forensic Science Trace Evidence Section Supervisor John Kilbourn was tendered by the State in rebuttal, particularly as to the fiber evidence. Mr. Kilbourn confirmed that his examinations and opinions were based on microscopic examination of the questioned fibers. (RT at 128-129.)⁴

51. On March 17, 1994, there was discussion about a necklace taken from Damien Echols at the time of his arrest and which was noted to have some red spots on it. (RT at 2454.) This necklace had been sent to Genetic Design, which had apparently found "two separate DNA sources on that particular necklace" according to the offer of proof. (RT at 2455-2456.) There was discussion that the sources appeared to be consistent with Mr. Echols, Mr. Baldwin, and victim Stevie Branch. (RT at 2456-2457.) The State requested time to deal with this matter, which, according to the Baldwin defense would be of no direct evidentiary value as to the case against Baldwin. (RT at 2565-2566.)

52. In its closing statements, the State argued that Baldwin had been present at the time of the killings. The State relied, in part, on fiber evidence which it contended

⁴As will be noted further in this Supplemental Motion, this point is important, as Mr. Kilbourn and Arkansas State Laboratory Criminalist Lisa Sakevicius had what, today, would be considered limited technology to conduct their assessments and examinations.

linked Baldwin to the crime. (RT at 2507-2508.) The prosecution also asserted that Baldwin had made certain damaging admissions to Michael Carson. (RT at 2542-2543.)

53. Baldwin's closing argument was that not only was he in school on May 5, 1993, but also that no evidence linked him to the crime other than the belated statements to law enforcement from juvenile facility informant Michael Carson. (RT at 2586-2591.)

C. Post-Conviction Facts and Procedural History.

54. Arkansas State Supreme Court Opinion - Baldwin's conviction was affirmed on direct appeal to the Arkansas State Supreme Court. (See, Echols and Baldwin v. State, 326 Ark. 917; 936 S.W.2d 509 (1996).) A number of issues were considered, and rejected, by the Arkansas State Supreme Court. Pertinent to this motion were matters specific to physical evidence, including allegations that: evidence from the forensic pathologist was insufficient to establish sexual attack, or the use of a particular serrated knife; and, the prosecutor mis-characterized the nature of the physical evidence by performing an experiment with a knife during his closing argument. The Supreme Court also considered, but turned aside, objections that this Court erroneously admitted evidence concerning various sticks found on the ground which the prosecution argued might have been used to inflict the types of injuries found on the victims. (936 S.W.2d at 524-547.)

55. After his conviction, Echols filed a petition under Rule 37 of the Arkansas Rules of Criminal Procedure which was the subject of a formal response by the State in February, 2002. Baldwin filed his abbreviated Rule 37 Petition in *pro se*. As this petition/motion is filed, Baldwin's Rule 37 Petition has been held in abeyance, and now that Baldwin has counsel, he intends to amend his Rule 37 Petition as soon as possible.

56. After his conviction, and acting in *pro se*, Baldwin filed a Motion to Preserve Evidence and For Access to Evidence For Testing, which was responded to by

the State in a filing dated February 2, 2002. Baldwin supplemented his Motion to Preserve Evidence and For Access to Evidence For Testing by writing in a letter to the Court entitled, "Request for Scheduling of Hearing on Preservation and Release of Evidence [and Related Motion]" on September 9, 2001. In doing so, he informed the Court that he was still trying to secure representation by counsel, and was hoping for the Court's prompt action on his Motion for Preservation and Release of Evidence.

III. GROUNDS FOR RELIEF.

57. Baldwin incorporates his prior Motion for Preservation and Release of Evidence filed with this Court, and moves for access to testing and evaluation of the evidence or information at issue as permitted by Ark. Code Ann. § 16-112-201 et seq.

(A) **SPECIFIC TESTING WAS EITHER NOT AVAILABLE AT TIME OF TRIAL, OR NOT AVAILABLE AS EVIDENCE CURRENTLY AVAILABLE, AND ACCEPTED TECHNOLOGY SHOULD BE EMPLOYED TO EXAMINE ALL EVIDENCE.**

58. Baldwin satisfies the Ark. Code Ann. § 16-112-202(a)(1)(A) requirement that the requested testing be performed on evidence secured in relation to the trial which resulted in his conviction. This is true of all the evidence sought to be preserved and retested by this Petition for Writ of Habeas Corpus, by Baldwin's separate Motion to Preserve Evidence and For Access to Evidence For Testing, and by this Supplement to that motion.

59. Baldwin satisfies the Ark. Code Ann. § 16-112-202(a)(1)(B) requirement that the requested testing was not available at the time of trial or the testing was not available as evidence at the time of trial.

(1) HAIR AND FIBER EVIDENCE

60. During the presentation of trial evidence, and arguments, Baldwin was alleged to have been linked to the crimes, in part, by fiber evidence. This evidence was initially the subject of testimony from Arkansas State Criminalist Lisa Sakevicius. Later, Alabama Crime Laboratory Trace Evidence Section Supervisor John Kilbourn added his testimony and rebuttal to a defense fiber examination. All of the experts who testified (or conducted) hair and fiber evidence review at trial used what would today be considered limited examination of the fiber evidence, using some forms of light sources, and microscopic examination.

61. According to the reports made available by the State prior to the commencement of trial, and notably the report prepared by John Kilbourn of the Alabama Department of Forensic Sciences on January 5, 1994, numerous items of physical evidence, including hairs, and many other samples, were under examination. With respect specifically to fiber comparisons, Criminalist Kilbourn noted the examinations of Criminalist Lisa Sakevicius. (Kilbourn Report, p. 10, Exhibit A to this pleading.) During the examination fibers were flattened, and then reviewed by the use of a microscope. (Kilbourn Report, pp. 3-4, Exhibit A to this pleading.)

62. The use of the Scanning Electron Microscope in fiber and hair analysis is discussed at length in scholarly works including Giannelli & Imwinkelreid, Scientific Evidence 3d Ed. (Lexis Law Publishing) 1999, with 2001 Supplement. A number of different tests, not used in this case, are available to assess, and compare, fibers. Some of these techniques were not commonly available at the time of the crimes charged. These tests include: burning tests; solubility tests; chromatography tests (of various kinds); fluorescent microscopy; Scanning Electron Microscopy ("SEM"); Small Angle Light Scattering ("SALS"); photometry; polarized light microscopes, etc. The use of scanning electron microscopy, discussed at some length in Chapter 24 of Giannelli & Imwinkelreid

(*supra*; beginning at page 429) is also discussed in Deedrick, Douglas, "Hairs, Fibers, Crime, And Evidence" 2 Forensic Science Communications, No. 3. (Part 2) Fiber Evidence, July 2000 (U.S. Department of Justice). Mr. Deedrick is the former Unit Chief of the Trace Evidence Unit of the Federal Bureau of Investigation.

63. The use of the Scanning Electron Microscope (also known as "SEM"), among other things, has been the subject of extensive litigation. Many crime laboratories now regularly use SEM technology to review gun shot residue, as well as other types of evidence because SEM produces a three dimensional image. SEM is described as a useful instrument for studying surface structure in order to analyze foreign material, as well as the composition of items such as fibers. (See, generally, People v. Marks, 54 Cal.App.3d 100; 126 Cal.Rptr. 350 (1975), discussing the use of scanning electron microscopy to review bite mark evidence.)

64. Baldwin asserts that the trace evidence, including hair and fiber evidence, should be reviewed through techniques in use and accepted by the Trace Evidence Units of the F.B.I., and all major accredited crime laboratories, as evidenced in currently accepted journals of the forensic sciences.

65. While the above technologies were known at the time of the trial, some had not been the subject of computer-assisted comparison capabilities. The fact that these technologies and techniques were known, and not employed in this case, makes them 'not available at the time of trial or the testing was not available at time of trial.' (Ark. Code Ann. § 16 112-202(a)(1)(B).)

66. A variety of courts have allowed application of microscopic examinations in comparisons of hair. (See, for example, State v. Faircloth, 99 N.C. App. 685, 691-93; 394 S.E. 2d 198, 202 (1990).) Under certain circumstances, the value of testimony concerning hair is highly dependent on the kind of examination performed by the examiner – leading one court to note that hair examination is an art, and that an expert can

exceed the scope of that art. (See, for example, McCarty v. State, 765 P.2d 1215 (Okla. Crim. 1988).) A variety of tests can distinguish various types of hairs, including SEM, and Neutron Activation Analysis ("NAA"). Here, neither SEM nor NAA were used, and it is unclear whether basic scientific techniques involving careful measurement of the hair samples were used, though there is evidence that microscopic examination occurred. (See, in general, for more modern techniques than used in this case Giannelli & Imwinkelreid, *supra*, Chapters 24-25 (Trace Evidence and Instrumental Analysis).)

67. SEM and other current technologies should be applied to all hairs, fibers, and other trace evidence transmitted to the Alabama Department of Forensic Sciences, and described in Forensic Scientist John Kilbourn's letter and inventory dated January 5, 1994, are appended here as Exhibit A.⁵

68. All known and unknown hair, clothing, and fiber evidence processed by the Arkansas State Crime Laboratory, and transmitted to the Alabama Department of Forensic Sciences, described in Mr. Kilbourn's letter dated January 5, 1994, including, but not limited to, Items K-1 through K-111, Q-1 through Q-36.

69. Included in the above-described list of fibers are: black polyester fibers, blue polyester fibers, green polyester fibers, red rayon fibers and cotton fibers found in Items Q-11 through Q-34, as described in Mr. Kilbourn's January 14, 1994 letter.

70. In addition, these techniques should be applied to all evidence which was reviewed by the Arkansas State Crime Laboratory Criminalist Lisa Sakevicius (See Exhibit B).

(2) FINGERPRINTS

71. Attempts were made to fingerprint a number of items including: E-3, a toy sheriff's star; a broken bicycle spoke reflector; a wooden stick marked E-17; a box of

⁵ See Footnote 1, above regarding the numbering of various items.

mud containing possible fingerprints marked E-21; E-23 a knife and a scabbard; E-24 an ice ax with a blue handle; E-169 a survival knife.

72. Fingerprint evidence has been accepted by the Arkansas courts for many years. It has been accepted in the Eighth Circuit as well. (See, for example, U.S. v. Dorsey, 852 F.2d 1068 (8th Cir. 1988). See also, generally, U.S. v. Howard, 260 F.3d 597 (7th Cir. 2001).) As is alleged in Section 3, below (and incorporated here by reference), today, specific photographic enhancement techniques are available to apply to the examination of fingerprints. The use of technology to enhance photographs of finger and palm prints is technology that has been accepted by courts. (See, generally, State v. Hayden, 90 Wash. App. 100; 950 P.2d 1024, 1025 (1998).)

73. There have been concerns about the way fingerprint evidence has historically been reviewed, as well as concerns about the relative scientific basis of certain fingerprint identification and comparison systems. (See, for example, U.S. v. LLera. Plaza, 188 F.Supp. 2d 549 (E. D. Penn., 2002).)

74. Ongoing investigation by counsel has revealed that some major law enforcement agencies, and related laboratories, have developed extensive databases which now allow relatively quick comparison of known and unknown fingerprints. Also, certain digital photography techniques allow the comparison of difficult to read fingerprints. A number of pattern analysis programs have been created which allow use of biometric databases, many of which are in operation in crime laboratories today.

75. For these reasons, the Court should grant Baldwin's request for analysis of fingerprint or potential fingerprint evidence using current technology.

(3) CRIME SCENE PHOTOGRAPHS

76. The paragraphs set forth immediately above note that there are current photographic techniques applicable to the evidence in this case. In addition to the above, Baldwin notes that there have been measurable advances in the technology of

photography as it has been applied to crime scenes, crime scene analysis, and to the review of crime scene evidence. So long as the technology is established to be reliable, the use of image enhancement technology, including digital enhancement, is properly applied in criminal cases. (See, generally, Nooner v. State, 907 S.W.2d 677 (Ark., 1995), *cert. denied* 517 U.S. 1143 (1996).) Computer technology has been used to great advantage in the restoration or improvement of conventional photographic images. (See Giannelli & Imwinkelreid, *supra*, 2001 Supplement, Chapter 25 "Instrumental Analysis" – section specific to the use of photography.)

77. In the present case, numerous photographs were taken by investigators not only at the crime scene, but also by criminalists in laboratory settings. There is nothing in the current record that evidences any use of digital enhancement, or computer enhancing technology, as recognized by the current literature, and pertinent decisions. This technology can be applied to great advantage in this case, in part, to deal with the question of whether the State correctly presented this as a case in which the killing took place near the scene in which the victims' bodies were found, and involved a thorough cleaning of the scene. The reprocessing of the photographic images will also allow the assessment of whether there is any evidence linking Baldwin with the crime scene – as the State obtained its conviction on the basis that Baldwin was present, an active participant, and aider and abetter.

(4) DNA

78. Items Baldwin seeks to have tested and assessed using either: multiple marker PCR (polymerase chain reaction) testing; short tandem repeat testing (STR); or mitochondrial DNA testing, on the items listed in paragraphs 78 to 89, including:

- Q6 (2S) cuttings from blue jeans: identified and questioned stain;
- Q10 (1S) cuttings from blue jeans: questioned stain;
- Q37 possible tissue recovered from knife;

Q4 possible tissue recovered from ligature from Christopher Byers;
Q39 possible tissue recovered from ligature from James Michael
Moore;
Q52(1b) human blood recovered from shirt;
Q52(2b) human blood recovered from shirt;⁶

79. All samples obtained from victims Christopher Byers; James Michael Moore; Steven Branch.

80. All samples obtained from Damien Wayne Echols, Richard G. Cummings, Jason Baldwin, Steve Menard, John Mark Byers, Jessie Misskelley, Jr, and all other suspects or potential suspects whose hair, blood or other biological samples were taken during the investigation.

81. All clothing and personal items booked by the West Memphis Police Department with the following evidence series designations: Q, FP, BR and E which include victims' clothing, clothing, samples and personal property belonging to possible or actual suspects as listed in West Memphis Police Department or Arkansas State Crime Laboratory reports. The above items include, but are not limited to:

E-1 bag of clothing;

E-2 shirt;

E-3 blue pants, including Q10 and blue Boy Scout shirt;

E-3 packaged with E-169;

E-4 white tennis shoe;

E-5 Cub Scout hat;

E-6 black tennis shoes;

⁶ These items were sent for DNA testing with the DQ Alpha system in 1993/1994.
(See Exhibit C-letters regarding DNA testing)

E-7 blue denim jeans and blue wallet;
E-8 black tennis shoes;
E-9 striped shirt;
E-10 red and white underpants;
E-11 white tennis shoes;
E-12 black tennis shoes;
E-13 blue denim jeans;
E-14 black athletic shoe;
E-23 knife from Susan Baldwin;
E-51 shoes from Steve Menard;
E-57 knife from apartment 67, Mayfair Apartments;
E-58 knife from Michael Hellee;
E-59 knife from Waller Street;
E-79 blue shirt;
E-91 black boots;
E-119 robe with red-brown stains;
E-129 boots reportedly from Damien Echols;
E-134 knife from principal Hilth;
E-169 knife;
E-176 folding knife;
E-179 knife;
Manila envelopes labeled E-53, 56, 58, 63, 60, 54;
Manila envelopes labeled E-55, 57, 59, 61, 62;

82. All ligatures booked into evidence in any series of evidence, including, but not limited to evidence series E, Q, FP, BR and K.

83. All fingernail scrapings taken from the victims, and booked into evidence, and currently retained by the West Memphis Police Department, Arkansas Crime Lab, or any other authorized custodian of records, documents and evidence.

84. All hairs booked into evidence which came: from the crime scene; any item of evidence booked by the West Memphis Police Department, the Arkansas State Crime Laboratory, or any other agency working on the investigation of this case; any suspect as listed by the West Memphis Police Department in reports pertinent to this case.

85. All knives, including, but not limited to, folding and serrated knives booked into evidence in any series of booked evidence, including, but not limited to the: E, Q, K, BR, FP series of exhibits, including E1-172.

86. All hair and body fluid evidence recovered from any listed suspect, including, but not limited to, hair and biological material impounded in the: E, K, Q, BR, FP series of evidence.⁷

⁷ It is evident from a review of materials and paperwork connected with this case that several different evidence identification and evidence booking systems were used during the investigation and prosecution of this case. For example, the West Memphis Police Department has assigned a certain identification system to this case which includes numbering and description of items of evidence on numerous evidence bags that are being retained in the custody of the West Memphis Police Department. Many of the evidence bags bear the West Memphis Police Evidence item description, a laboratory item number and description, and may bear other identifying information as well. The Arkansas State Crime Laboratory appears to have used a system which consisted of labeling items by specific item number, together with an item description. For example, a June 1, 1993 letter from serologist Kermit Channell of the Arkansas State Crime Laboratory identifies Item K-33 as a 'blood sample from Steve Menard.' Other documents, however, seem to duplicate and confuse this system. A letter dated January 5, 1994 from the Alabama Department of Forensic Sciences also has assigned both Q and K numbers to many different items submitted to that laboratory. At page 9 of the Alabama Department of Forensic Sciences' letter Item K-107 is described as, "one paper bag labeled 'E-105 white tennis shoes from Jason's 93-05716 Q74 Q75.'" Items identified in this motion by number can be located on specific law enforcement agency

87. The contents of any bag, paper, container or sheet used to transport or impound any evidence in this case, including, but not limited to: the bodies of the victims; suspect clothing; victims' clothing; knives; sticks; shoes; boots; branches or wooden objects.

88. All tissue or suspected human tissue impounded in the following series of evidence: E, Q, K, BR, FP.

89. Exhibits appended to this pleading, consisting of transmittal letters, and letter-reports from the Arkansas State Crime Laboratory to Genetic Design, Inc., and from Genetic Design to the Crime Laboratory, demonstrate that some basic DNA testing available in 1993 was performed on a total of 13 items (see, Exhibit B Forensic Case Report from Genetic Design dated July 13, 1993, appended under the cover sheet "DNA Test Documentation"). The State of Arkansas has recognized that persons can be falsely convicted of crimes. To remedy erroneous convictions or major errors in adjudication of identification, the State of Arkansas allows post-conviction testing of specific types of evidence. (Arkansas Code Ann. § 16-112-202; see also, "Convicted By Juries, Exonerated By Science: Case Studies In The Use Of DNA Evidence To Establish Innocence After Trial," Connors, *et al.*, National Institute of Justice, June 1996.)

90. The methods used by laboratories and forensic scientists for "DNA testing" in forensic sciences has changed vastly since 1993. For example, the Arkansas Crime Laboratory received technology permitting the use of Polymerase Chain Reaction ("PCR") testing which became available in 1995, and was used initially in 1996. Today, the Laboratory is acquiring the technology and expertise to conduct Mitochondrial DNA testing. Mitochondrial DNA is passed from mother to child, and when located and identified in a given sample, allows very 'specific' identification of biological material.

inventories, if necessary.

91. Kermit Channel, who is employed at the Arkansas Crime Laboratory and who worked on this case at the time of trial, has recently conferred with counsel for the State, and has suggested some 'outside' laboratories for DNA testing of evidence in this case.⁸

92. A variety of techniques, including DNA length variations and related examination technologies, have been developed within the last few years which allow scientists far greater ability to: amplify the DNA from a given known or unknown sample; produce specified repeats of sequences of given DNA ("STR"); perform various types of electrophoresis, etc. In fact, many laboratories now have advanced technology which allow for a far more detailed examination of a given sample than the simple "DQ Alpha" techniques, which were applied in this case. Such is the evolution and development of pertinent forensic sciences that various manufacturers of scientific products have developed complex "packages" of technology that permit the application of new DNA technologies to a given item. These technologies are known by names such as: the Promega GenePrint Silver Stain STR Kit, the AMP F1STR Profiler Plus as analyzed by the ABI Prism 310 Genetic Analyzer, etc.⁹

⁸ This information was made known to counsel through copies of a letter, and through discussions with Mr. Davis.

⁹ Discussions of various new technologies can be found not only in the pertinent scientific literature, but also in the record of proceedings in numerous cases. See, for example, Commonwealth v. Rosier, 425 Mass. 807; 685 N.E. Rptr.2d 739 (1997). See also, Imwinkelried and Kaye, "DNA Typing: Emerging And Neglected Issues," 76 Washington Law Review 413 (2001); Perker-Elmer-Applied Biosystems: Human Identity Home Page; Validation of STR Systems Reference Manual (March, 2001), Promega Corporation; Quality Assurance Audit Guidelines For Forensic DNA And Convicted Offender DNA Databasing Laboratories, Director of the FBI, Forensic Science Communications, Vol. 3, No. 1 (January, 2001). A number of scientists testified about these emerging techniques at length in People v. Parnell, et al., California Superior

93. Several states have considered, and decided to admit, testing based on either multiple loci within DNA or based on the application of new technology. (See, for example, State v. Jackson, 582 N.W. Rptr.2d 317 (Nebraska, 1998) [dealing with STR testing]; State v. Butterfield, 23 P.Rptr.3d 1133 (Utah, 2001) [dealing with Profiler Plus technology]; People v. Hill, 89 Cal.App.4th 48 (2001) [Profiler Plus].) Indeed, under specific circumstances, it has been held an abuse of discretion for a federal court reviewing post-conviction claims to deny a habeas petitioner's motion to conduct DNA testing where the appropriate testing was unavailable at trial. (See, for example, Toney v. Gammon, 79 F.3d 693, 700 (8th Cir. 1996).) Case law encourages the use of current DNA technology, where possible. (See, for example, in Cherrix v. Braxton, 131 F.Supp.2d 756 (E.D.Va., 2000), where it was deemed that 1994 DNA testing methods were technologically inferior to testing methods current in 1999-2000.)

94. In sum, the combination of case law, scientific literature, and DNA specific scholarship (and research) makes it clear that there are procedures, techniques and methods available today to analyze biological material that go far beyond the DQ Alpha techniques used in this case in 1993.

B. BALDWIN SATISFIES THE REQUIREMENTS FOR A PRIMA FACIE CASE FOR ACCESS TO/AND REEXAMINATION OF EVIDENCE BASED ON ARK. CODE ANN. §16-112-202(b).

(1) IDENTITY WAS AN ISSUE

95. Baldwin satisfies the "identity was an issue in the trial" element contained in Ark. Code Ann. § 16-112-202(b)(1) because identity was an issue in the trial.

Court, County of Sacramento, 98 F.008869 et seq. [A series of cases consolidated for hearing on the acceptance of current technology].

96. Baldwin has consistently contended that he was incorrectly identified as a perpetrator, and claims actual innocence.

(2) CHAIN OF CUSTODY ESTABLISHED

97. Baldwin satisfies the chain of custody element for a *prima facie* case under Ark. Code Ann. § 16-112-202(b)(2) which requires that “the evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect.”

98. The State has had custody of the evidence in this case and has had the duty to preserve such evidence. On two occasions, counsel for Misskelley looked at the evidence and made efforts to ensure that it was properly bagged. The State has been on notice since Misskelley’s November, 2000 Motion to Preserve Evidence, that Misskelley sought preservation of this evidence. Baldwin filed his Motion for Preservation of Evidence soon after Misskelley.

C. BALDWIN IS ENTITLED TO A COURT ORDER FOR TESTING OF EVIDENCE BASED ON ARK. CODE ANN. § 16-112-202(c)(1).

99. Baldwin has established a *prima facie* case for retesting (see above) as required in Ark. Code Ann. § 16-112-202(b)(1) and (2), and thus, has satisfied Ark. Code Ann. § 16-112-202(c)(1)(A).

(1) NON-CUMULATIVE AND MATERIAL EVIDENCE WILL RESULT

100. Baldwin satisfies Ark. Code Ann. § 16-112-202(c)(1)(B) which requires “The testing has the scientific potential to produce new noncumulative evidence materially relevant to the defendant’s assertion of actual innocence...”

101. The testing and examinations sought here are intended to apply current, updated, testing and examination methods to a variety of evidence which was either: not tested or examined at the time of trial; tested and examined through the use of what would today be considered outdated or only partially accepted techniques, and presented to the jury in such form; or examined and partially tested according to present standards, and never presented to the jury. As a result, he is seeking new evidence, as he is applying either new, but accepted, techniques to previously tested evidence, or similar techniques to evidence that was not tested. Moreover, where evidence presented to jurors did not comport with scientific standards, he seeks to ensure the availability of accepted, and appropriate science in the analysis of the evidence in this case.

102. Baldwin seeks relief to assure that inconclusive tests or examination results are revisited; insufficient or incomplete tests or examinations are sufficient and complete; and untested or unexamined evidence is examined.

103. As a result, Baldwin seeks non-cumulative evidence through this application, and submits that the use of currently accepted techniques of examination as alleged and described above will produce relevant, material and non-cumulative evidence.

(3) TESTING METHODS ARE GENERALLY ACCEPTED

104. Baldwin satisfies the Ark. Code Ann. § 16-112-202(c)(1)(C) requirement that "The requested testing employs a scientific method generally accepted within the relevant scientific community."

105. Baldwin has alleged in detail, above, the basis for his requests and motions. He had set forth justifications for the testing and examinations that he seeks through references to the relevant case law and scientific literature. He has specifically made reference to cases specific to technologies or techniques at issue, and has referred the Court and the parties to recent, and relevant scientific literature. He has made reference to works by scientists who are acknowledged to be experts in their fields.

IV. EXHIBITS SUBMITTED

106. Baldwin incorporates by reference all Exhibits submitted by Damien Echols and Jessie Misskelley, Jr. in their motions, petitions, and other submissions to the Court. He appends here, and incorporates by reference as fully included in this Petition and Supplement to his Motion the following appended Exhibits:

- Exhibit A—January 5, 1994 Letter Report From Alabama Department of Forensic Sciences, John Kilbourn, Examiner;
- Exhibit B—Evidence Submission Forms, and January 1994 Lisa Sakevicius Trace Evidence Report;
- Exhibit C—May and July, 1993 State Laboratory Transmittal, and Genetic Design report with August, 2002 State Laboratory Explanation.

V. CONCLUSION

107. Baldwin has had a motion for preservation and re-examination of physical evidence pertinent to his case on file for more than a year. He seeks here what he is entitled to under the laws of the State of Arkansas, and of the United States. Baldwin moves this Court for relief as specified above.

Dated:

RESPECTFULLY SUBMITTED,

BLAKE HENDRIX, ESQ.

J.T. PHILIPSBORN, ESQ.



By: BLAKE HENDRIX


Attorneys for Charles Jason Baldwin

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CERTIFICATE OF SERVICE

I, J. Blake Hendrix, hereby certify that a copy of the foregoing was placed in the U.S. Mail, postage prepaid, on November 18, 2002 to:

Brent Davis, Esq.
1021 S. Main Street
P.O. Box 491
Jonesboro, AR 72403



J. Blake Hendrix

EXHIBIT A

**January 5, 1994 Letter Report From Alabama Department of
Forensic Sciences, John Kilbourn, Examiner**



CARLOS L. RABREN
DIRECTOR

JAMES M. BUTTRAM, Ph.D.
DEPUTY DIRECTOR

ALABAMA DEPARTMENT OF
FORENSIC SCIENCES
HUNTSVILLE DIVISION

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January 5, 1994

Brent A. Wheeler
Laboratory Director

SERVICES

Forensic Drug Chemistry
Forensic Pathology
Forensic Serology
Trace Evidence Examination
Firearms/Toolmarks Examination
Crime Scene Investigation

Re: Case 01A-94HV00203
James Michael Moore, subject
Steve Edward Branch, subject
Christopher Mark Byers,
subject
Damien W. Echols, suspect
Jason Baldwin, suspect
Jessie Misskelley, suspect

MEMORANDUM: To File

BY : John H. Kilbourn, Forensic Scientist IV

SUBJECT : Examination of Physical Evidence

At the request of Arkansas Prosecuting Attorney Brent Davis, this examiner and Forensic Scientist Rodger Morrison assisted the Arkansas Crime Laboratory in the examination of various items of evidence in the above styled case. The initial examination of the evidence was conducted at the Arkansas Crime Laboratory in Little Rock, Arkansas. Present and assisting during the examinations in Little Rock was Criminalist Lisa Sakevicius. Criminalist Sakevicius also assisted in the selection of the items of evidence to be examined. Items of evidence were also brought to the Huntsville Regional Division of the Alabama Department of Forensic Sciences for examination and analysis. The following is a list of items of evidence examined and the results of the examination of these items:

- K1 - Four (4) microscope slides bearing numerous hairs with each slide identified as the known hair of Steven Branch.
- K2 - Three (3) microscope slides bearing numerous hairs with each slide identified as the known hair of Christopher Byers.

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- K3 - Four (4) microscope slides bearing numerous hairs with each slide identified as the known hair of James Moore.
- K4 - Nine (9) microscope slides bearing numerous hairs with each slide identified as known hair from Damien Echols.
- K5 - Three (3) microscope slides each bearing hairs and each slide identified as the known hair of Jason Baldwin.
- K6 - One (1) microscope slide bearing hairs and identified as the known hair of Jessie Misskelley.
- K7 - Three (3) microscope slides each bearing hairs and each slide identified as from Mr. Dodson.
- Q1 - One (1) microscope slide bearing one hair. This slide was labeled "93-05717 FP5 QH shaved hair Branch".
- Q2 and Q3 - One (1) microscope slide bearing two hairs. This slide was labeled "93-05717 FP5 QH shaved Branch LS 5-20-93".
- Q4 - One (1) microscope slide labeled "9305716 E5 QH Boy Scout Cap LS 5-18-93" and bearing two hairs.
- Q5 - One (1) microscope slide labeled "93-05716 E 148 QH inside shoe LS 10-14-93" and bearing one hair.
- Q6 - One (1) microscope slide labeled "93-05716 E127LS1 QH Tree (root stump) LS 6/9/93" and bearing one hair.
- Q7 - One (1) microscope slide labeled "93-05716 E134 QH LS 6-14-93" and bearing one hair.
- Q8 - One (1) microscope slide labeled "93-05716 E148 QH shoe lace LS 10-14-93" and bearing one hair.
- Q9 - One (1) microscope slide labeled "93-05718 FP8 QH ligature Burns LS 5-18-93" and bearing one hair.
- Q10 - One (1) microscope slide labeled "93-05718 FP6 QH lower leg vict. LS 5-14-93" and bearing one hair.

December 10, 1993, this examiner received via UPS from Criminalist Sakevicius the following items of evidence:

- K8 - One manila envelope containing two microscope slides with mounted hairs and labeled "9305716 E168 KHH Murray".
- K9 - One envelope containing hair and labeled in part "E-155 Melissa Byers".
- K10 - One envelope containing hair and labeled in part "E-156 Steve Branch".
- K11 - One envelope containing hair and labeled in part "E-157 Sherri Branch".
- K12 - One envelope containing hair and labeled in part "E-158 Diana M. Moore".
- K13 - One envelope containing hair and labeled in part "E-159 Terry W. Hobbs".
- K14 - One envelope containing hair and labeled in part "E-160 Ryan Clark".
- K15 - One envelope containing hair and labeled in part "E-161 Amanda Hobbs".
- K16 - One envelope containing hair and labeled in part "E-162 Pamela Hobbs".
- K17 - One envelope containing hair and labeled in part "E-163 Diana Moore".
- K18 - Two envelopes containing hair and labeled in part "E-168 Ricky L. Murray".

The following samples were examined and compared:

- Q11 - One microscope slide bearing two fibers and labeled "93-05716 E134 QF Black Polyester match w/E 78".
- Q12 - One microscope slide bearing a fiber and labeled "93-05716 E134 QF Blue Polyester Match w/E109A".
- Q13 - One microscope slide bearing a fiber and labeled "93-05716 E5 QF green polyester Match w/E97".

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Q14 - One microscope slide bearing a fiber and labeled "93-05716 E2 QK red rayon match w/E99".

Q15 - One microscope slide bearing two fibers and labeled "93-05716 E9 QF blue green cotton match w/E79".

Q16 - One microscope slide bearing one fiber and labeled "9305716 E1 QF Red cotton match w/E92".

Q17 - One microscope slide bearing three red fibers and labeled "9305716 E3 QF red cotton match w/E92".

Criminalist Sakevicius submitted to this examiner numerous small manila envelopes each containing a microscope slide with sticky tape adhering. Adhering to the sticky tape were numerous hairs and fibers. The envelopes are labeled as follows and were identified as known standards:

K19 - "D1 Damien Echols residence bedroom green blanket electric blanket".

K20 - "D5 Damien Echols Residence Bedroom closet purple dress".

K21 - "D7 Residence Damien Echols black T-shirt closet".

K22 - "D8 blue green shirt closet E79".

K23 - "D9 blue green shirt closet".

K24 - "D10 purple shirt closet".

K25 - "D11 red/white stripped shirt-closet".

K26 - "D12 red bandana bedroom".

K27 - "D14 Black T-shirt closet".

K28 - "D15 purple T-shirt".

K29 - "D16 Red Sweater".

K30 - "D18 black T-shirt bed".

K31 - "D20 2 black shirts, 1 red shirt, 1 black jeans bathroom dryer".

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- K32 - "D22 red white shirt master bedroom".
 - K33 - "D23 carpet from living room green".
 - K34 - "D24 green socks-chest by kitchen E93".
 - K35 - "D25 black shirt E94".
 - K36 - "D27 green blanket Grandma's bedroom No E#".
 - K37 - "J15 Toilet covers E109".
 - K38 - "DT1 pink blanket back bedroom".
 - K39 - "J1 carpet-bedroom".
 - K40 - "J3 purple garment E97".
 - K41 - "J4 blue housecoat".
 - K42 - "J5 Red garment".
 - K43 - "J7 Red purple carpet closet shelf".
 - K44 - "J8 Light blue pad".
 - K45 - "J10 black clothing from drawer".
 - K46 - "M2 purple bandana black shirt".
 - K47 - "M6 4 shirts from brown case".
 - K48 - "M7 three shirts 1 short drawer".
 - K49 - "M8 green plaid shirt from closet".
 - K50 - "M10 red long johns purple shirt".
 - K51 - "Orange chair @ P.D. background fibers".
- Also submitted were numerous manila envelopes each containing fibers or a piece of fabric and identified as from the victims' clothing. These were labeled as follows:
- K52 - "93-05716 E1 blue boy scout shirt".

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- K53 - "93-05716 E2 shirt-black & white check surface dye".
- K54 - "93-05716 E3 blue pants".
- K55 - "93-05716 E4 white shoe, right".
- K56 - "93-05716 E5 cub scout cap".
- K57 - "93-05716 E6 shoe".
- K58 - "93-05716 E8 black right shoe black & purple fibers".
- K59 - "93-05716 E9 shirt black & white striped".
- K60 - "93-05716 E10 underwear multicolored".
- K61 - "93-05716 E12a shoe".
- K62 - "93-05716 E12b sock".
- K63 - "93-05716 E72 std".
- K64 - "93-05716 E73 std".
- K65 - "93-05716 E76 std".
- K66 - "93-05716 E78 std".
- K67 - "93-05716 E79 std".
- K68 - "93-05716 E82 std".
- K69 - "93-05716 E88 std".
- K70 - "93-05716 E90 std".
- K71 - "93-05716 E90 std".
- K72 - "93-05716 E93 std".
- K73 - "93-05716 E94 std".
- K74 - "93-05716 E96b std".
- K75 - "93-05716 E96e std".
- K76 - "93-05716 E96i std".

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- K77 - "93-05716 E96j std".
- K78 - "93-05716 E96k std".
- K79 - "93-05716 E97 std".
- K80 - "93-05716 E98 std".
- K81 - "93-05716 E101 std".
- K82 - "93-05716 E102 std".
- K83 - "93-05716 E102 std".
- K84 - "93-05716 E104d std".
- K85 - "93-05716 E104e std".
- K86 - "93-05716 E110 std".
- K87 - "93-05716 E110 std boot lace".
- K88 - "93-05716 E112a std".
- K89 - "93-05716 E112 b std".
- K90 - "93-05716 E113 std".
- K91 - "93-05716 E114 std".
- K92 - "93-05716 E116a std".
- K93 - "93-05716 E116b std".
- K94 - "93-05716 E116d std".
- K95 - "93-05716 E117b std".
- K96 - "93-05716 E117c std".
- K97 - "93-05716 E117c std".
- K98 - "93-05716 E117d std".
- K99 - "93-05716 E122a std".
- K100 - "93-05716 E131b std".
- K101 - "93-05716 std. of blanket from mortuary".

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The following samples consisted of soil contained in manila envelopes. These envelopes were labeled as follows:

- Q18 - "E7 - Jeans".
- Q19 - "E13 - blue denim jeans".
- Q20 - "E1 - blue shirt".
- Q21 - "E2 - shirt-black & white check".
- Q22 - "E3 - blue pants".
- Q23 - "E4 - shoe, white".
- Q24 - "E5 - cub scout cap".
- Q25 - "E6 - shoe".
- Q26 - "E8 - black shoe".
- Q27 - "E9 - shirt-black & white stripe".
- Q28 - "E10 - underwear red".
- Q29 - "E11 - shoe white left".
- Q30 - "E14 - shoe".
- Q31 - "E12 - shoe & sock".
- Q32 - "LS3 - wooden stick".
- Q33 - "FP6 - soil from ligature".
- Q34 - "FP8 - soil from ligature".

The following samples were examined and compared for footwear comparisons:

- Q35 - Two cardboard boxes labeled in part "E15 & E16 plaster cast footprint" and each containing a plaster cast of a footwear impression.
- K102 - One sealed paper bag labeled in part "E149 white tennis shoes removed from Buddy Lucas 10-14-93 93-05716" and containing one pair of "Converse" tennis shoes.

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- K103 - One sealed paper bag labeled in part "one pair BLK/white tennis shoes recovered from Buddy Lucas 10-14-93 93-05716" and containing one pair of black and white "Converse" tennis shoes.
- K104 - One sealed cardboard box labeled in part "93-05716 Q127 Q128" and containing one pair of Black "Reebok" tennis shoes.
- K105 - One sealed bag labeled in part "shoes recovered from Buddy Lucas that belonged to Jessie Misskelley recovered 6-10-93 9305716 E139 LS" and containing one pair of "Adidas" white and blue high top tennis shoes.
- K106 - One cardboard box labeled in part "93-05716 E91, 95, 129, 110, 105 and containing:
- K107 - One paper bag labeled "E-105 white tennis shoes from Jason's 93-05716 Q74 Q75" and containing one pair of purple and white "Nike" shoes.
- K108 - One paper bag labeled "E110 pair green lace up boots from Jason's 9305716 E110" and containing one pair of green canvas and rubber boots.
- K109 - One paper bag labeled "pair black boots from Damiens belongs to Jason Baldwin 6-3-93 9305716 E91 LS" and containing one pair of black boots.
- K110 - One paper bag labeled "boots worn by Damien Echols at time of arrest 6-3-93 93-05716 E129" and containing one pair of black boots.
- K111 - One paper bag labeled "black tennis shoes from Damiens 6-3-93 9305716 E95" and containing one pair of "Reebok" black tennis shoes.
- Q36 - One clump of soil bearing a footwear impression and identified as recovered from scene.

RESULTS:

Hair Comparisons:

Items Q1-Q9 were examined and compared to the known samples submitted. Q1 and Q2 consisted of two hairs with razor cut proximal ends. These hairs exhibit some similarities to both the known hair of Echols (K4) and Dodson (K7). These hairs could have originated from one of these individuals or another individual whose hair exhibits similar microscopic characteristics.

Q10 consisted of one hair exhibiting microscopic characteristics consistent with the known hair of Echols (K4). This hair could have originated from Mr. Echols or another individual whose hair exhibits similar microscopic characteristics.

The remaining Q hair samples were either dissimilar to the known hairs of the suspects or in this examiner's opinion lacked sufficient microscopic characteristics for an adequate comparison.

Fiber Comparisons:

Numerous fiber examinations and comparisons were conducted. Samples Q18-Q34 were examined for fibers. These fibers were removed for comparison with the known samples. The questioned fibers which were matched to the known fibers are as follows:

Q11 consisted of two black polyester fibers. One of these were flattened and identified by Criminalist Sakuvicus as having been done during her analysis. These polyester fibers were found to be consistent with the known polyester fibers in item K66.

Q12 was determined to be a blue polyester fiber and to be consistent with the known fibers in item K37.

Q13 was determined to be a green polyester fiber. The fiber had been partially flattened. The fiber was found to be consistent with the known fibers in item K79.

Q14 consisted of a red rayon fiber which had been partially flattened. The fiber was found to be consistent with the known fibers in item K42.

No comparisons were conducted on the cotton fibers found in items Q15-Q17.

Footwear Comparisons:

The plaster casts of the footwear impressions (Q35) and the impression in the soil (Q36) were consistent with having been made by a tennis-type shoe sole. In this examiner's opinion these impressions were not made by the submitted footwear (items K102-K111).

JHK:yt

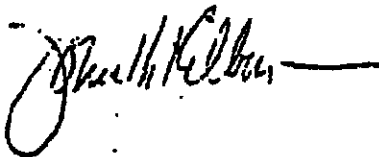


EXHIBIT B

**Evidence Submission Forms, and
January 1994 Lisa Sakevicius Trace Evidence Report**

EVIDENCE SUBMISSION FORM

(page 2 of 5)

Officer/Agency/Address/Telephone Number

FOR LABORATORY USE ONLY

Laboratory Case No.: 93-05716

Date Rec'd in Lab.:

How Evidence Rec'd: Hc

Agency Case No.: 93-05-0666

Type of Offense: TRIPLE HOMICIDE

Victim(s)
BYERS, CHRISTOPHER W/M 06-23-84
MOORE, MICHAEL W/M 07-27-84
BRANCH, STEVEN, W/M 11-26-84

(DOB) (RACE) (SEX)
Location (City, County) WEST MEMPHIS/ CRITTENDEN Date of Offense 05-05-93

FIVE DRYN RIDGE
WEST MEMPHIS POLICE DEPARTMENT
100 COURT STREET
WEST MEMPHIS, ARKANSAS. 72301
732-7555

Suspect(s)
UNKNOWN

(DOB) (RACE) (SEX)
Has any evidence been previously submitted to the laboratory on this case? Yes ~~xxx~~ No — 93-05716

List and describe evidence submitted: (Use back side if necessary)
Evidence Number and descriptions on attached 3 sheets
E-72 through E-134

- Circle as needed
- Document
 - Drug Analysis
 - Firearms/Toolmark
 - Latent Prints
 - Medical Examiner
 - Photography
 - Serology
 - Toxicology
 - Trace Evidence

RECEIVED:
93 JUN -9 PM 12: 26
STATE CRIME LABORATORY

Type of Analysis Requested:

Summary of Crime:

I certify that I have submitted the evidence listed above:
Date: _____ Name: A.T. Anderson Signature: *(Signature)*

| | | |
|-------------------------|----------------|------|
| E-72 GREEN BLANKET | TRACE EVIDENCE | D-1 |
| E-73 BLUE GREEN SOCKS | TRACE EVIDENCE | D-2 |
| E-74 KNIFE | TRACE EVIDENCE | D-3 |
| E-75 KNIFE | TRACE EVIDENCE | D-4 |
| E-76 PURPLE DRESS | TRACE EVIDENCE | D-5 |
| E-77 WALLET | TRACE EVIDENCE | D-6 |
| E-78 BLACK T-SHIRT | TRACE EVIDENCE | D-7 |
| E-79 BLUE SHIRT | TRACE EVIDENCE | D-8 |
| E-80 BLUE SHIRT | TRACE EVIDENCE | D-9 |
| E-81 PURPLE SHIRT | TRACE EVIDENCE | D-10 |
| E-82 RED SHIRT | TRACE EVIDENCE | D-11 |
| E-83 RED BANDANNA | TRACE EVIDENCE | D-12 |
| E-84 BOOK/CANDLE WAX | TRACE EVIDENCE | D-13 |
| E-85 BLACK T-SHIRT | TRACE EVIDENCE | D-14 |
| E-86 PURPLE T-SHIRT | TRACE EVIDENCE | D-15 |
| E-87 RED SHIRT | TRACE EVIDENCE | D-16 |
| E-88 RED BED SHEET | TRACE EVIDENCE | D-17 |
| E-89 BLACK T-SHIRT | TRACE EVIDENCE | D-18 |
| E-90 CLOTHING FROM BATH | TRACE EVIDENCE | D-19 |
| E-91 PAIR BLACK BOOTS | TRACE EVIDENCE | D-21 |
| E-92 RED SHIRT | TRACE EVIDENCE | D-22 |
| E-93 GREEN SOCKS | TRACE EVIDENCE | D-24 |
| E-94 BLACK SWEAT SHIRT | TRACE EVIDENCE | D-25 |
| E-95 BLACK TENNIS SHOES | TRACE EVIDENCE | D-26 |
| E-96 SHIRTS | TRACE EVIDENCE | |

STATE CRIME LABORATORY
J-2
93 JUN -9 PM 12: 24

RECEIVED
[Signature]

| | | | |
|-------|---|----------------|------|
| E-98 | WHITE HOUSE COAT | TRACE EVIDENCE | J-3 |
| E-99 | BLUE HOUSE COAT | TRACE EVIDENCE | J-4 |
| E-99 | RED HOUSE COAT | TRACE EVIDENCE | J-5 |
| E-100 | POEM ON WHITE PAPER | TRACE EVIDENCE | J-6 |
| E-101 | RED PIECE CARPET | TRACE EVIDENCE | J-7 |
| E-102 | BLUE CLOTH AND PINK CLOTH WITH ANIMAL TEETH | TRACE EVIDENCE | J-8 |
| E-103 | BLACK SHIRT | TRACE EVIDENCE | J-9 |
| E-104 | JEANS | TRACE EVIDENCE | J-10 |
| E-105 | WHITE SHOES | TRACE EVIDENCE | J-11 |
| E-106 | 4 BLACK SHIRTS AND A GREEN RAIN COAT | TRACE EVIDENCE | J-12 |
| E-107 | PAIR BLUE JEANS AND SHORTS | TRACE EVIDENCE | J-13 |
| E-108 | BAR WAXY SOAP | TRACE EVIDENCE | J-14 |
| E-109 | BLUE TOILET SEAT COVER | TRACE EVIDENCE | J-15 |
| E-110 | PAIR GREEN LACE UP BOOTS | TRACE EVIDENCE | J-16 |
| E-111 | KNIFE | TRACE EVIDENCE | M-1 |
| E-112 | PURPLE BANDANA AND BLACK SHIRT | TRACE EVIDENCE | M-2 |
| E-113 | BLACK MASK | TRACE EVIDENCE | M-3 |
| E-114 | GREY T-SHIRT | TRACE EVIDENCE | M-4 |
| E-115 | BLUE JEANS | TRACE EVIDENCE | M-5 |
| E-116 | 5 T-SHIRTS | TRACE EVIDENCE | M-6 |
| E-117 | 3 T-SHIRTS | TRACE EVIDENCE | M-7 |
| E-118 | GREEN PLAID SHIRT | TRACE EVIDENCE | M-8 |
| E-119 | PICTURE WITH DRAWN SHAPES | TRACE EVIDENCE | M-9 |
| E-120 | PAIR RED LONG JOHNS AND PURPLE SHIRT | | |

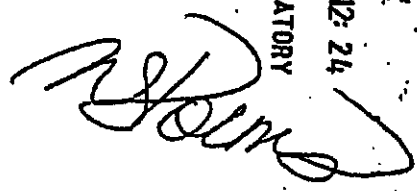
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| | | | |
|--|---|------|----|
| | TRACE EVIDENCE | M-10 | |
| E-121 CHAIN AND WHISTLE | TRACE EVIDENCE | M-11 | DI |
| E-122 PINK BLANKET | TRACE EVIDENCE | DT-1 | |
| E-123 BRIEF CASE CONTENTS | TRACE EVIDENCE | DT-2 | |
| E-124 BLUE WAX CANDLE | TRACE EVIDENCE | DT-3 | |
| E-125 WHITE ROPE | TRACE EVIDENCE | DT-4 | |
| E-126 DAGGER TYPE KNIFE | TRACE EVIDENCE | DT-5 | |
| E-127 SLIDES COLLECTED BY LDS OF THE ARKANSAS STATE CRIME LAB DURING THE SEARCH OF ALL THREE RESIDENCES. NUMBERS ON SLIDES WILL COINCIDE WITH THE NUMBERS IN THE LAST COLUMN OF THE ABOVE LISTED E- NUMBERS. | | | |
| E-128 CLOTHING WORN BY DAMIEN ECHOLS AT THE TIME OF HIS ARREST. | TRACE EVIDENCE | | |
| E-129 BLACK BOOTS WORN BY DAMIEN ECHOLS AT TIME OF ARREST | TRACE EVIDENCE | | |
| E-130 DORAL CIGARETTE PACKAGE FOUND NEAR SCENE OF HOMICIDE | TRACE EVIDENCE LATENT PRINTS | | |
| E-131 CLOTHES WORN BY JASON BALDWIN AT TIME OF ARREST | TRACE EVIDENCE | | |
| E-132 WOODEN SLATS RECOVERED NEAR SCENE OF HOMICIDE | TRACE EVIDENCE AND COMPARE TO ANY VISIBLE WOUNDS ON VICTIMS AS A MATCH | | |
| E-133 KNIFE | TRACE EVIDENCE | | |
| E-134 KNIFE | TRACE EVIDENCE | | |
| E-135 KNIFE | | | |

PLEASE PROCESS THE ABOVE NOTED EVIDENCE AS YOU REQUIRE TO DETERMINE IF ANY CAN BE LINKED TO THE CRIME SCENE OR THE KNOWN OR QUESTION SAMPLES PREVIOUSLY SUBMITTED.

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93 JUN -9 PM 12: 24
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ARKANSAS STATE CRIME LABORATORY

FACSIMILE TRANSMITTALDATE: Jan 18, '94TO: John FogelmanFROM: Lisa Sakiewicz / Lynn LeePAGE COUNT: 4
(Including This Page)

Ref report 93-05716 dtd 1/17/94 per
your request.

original in today's mail.

Thanks

STATE CRIME LABORATORY

P.O. BOX 5274

Number 3 Natural Resources Drive
Little Rock, Arkansas 72218Laboratory Services
227-5747

REPORT OF LABORATORY ANALYSIS

Medical Examiner
227-8888Investigating Office/Agency/AddressDet. B. Ridge
West Memphis Police Department
100 Court Street
West Memphis, AR 72301

Laboratory Case Number: 93-05716

Page 1 of 2

Date Received in Lab: See Below

How Evidence Received: See Below

Agency Case Number: 93-05-0666

SUPPLEMENTAL REPORTSuspect(s):Darien Wayne Echols
Jason Baldwin
Jessie MisskelleyVictim(s):

James Michael Moore

Date of Report: 01/17/94

Reference report dated 6-29-93

ITEM(S) SUBMITTED FOR EXAMINATION FROM THE WEST MEMPHIS POLICE DEPARTMENT ON 10-14-93:

48 One (1) pair of black tennis shoes

ITEM(S) SUBMITTED FOR EXAMINATION FROM THE WEST MEMPHIS POLICE DEPARTMENT ON 10-18-93:E149 One (1) pair of white tennis shoes from Buddy Lucas
E150 One (1) pair of black and white tennis shoes from Buddy Lucas
E152 One (1) envelope containing a pubic hair sample from Buddy Lucas
E153 One (1) envelope containing a pulled head hair sample from Buddy Lucas
E154 One (1) envelope containing a combed head hair sample from Buddy LucasITEM(S) SUBMITTED FOR EXAMINATION FROM THE WEST MEMPHIS POLICE DEPARTMENT ON 10-29-93:E155 One (1) envelope containing head hairs from Melissa Byers
E156 One (1) envelope containing head hairs from Steve Branch
E157 One (1) envelope containing head hairs from Sherri Branch
E158 One (1) envelope containing head hairs from Dawn Moore
E159 One (1) envelope containing head hairs from Terry Hobbs
E160 One (1) envelope containing head hairs from Ryan Clark
E161 One (1) envelope containing head hairs from Amanda Hobbs
E162 One (1) envelope containing head hairs from Pamela Hobbs
E163 One (1) envelope containing head hairs from Diana Moore
E164 One (1) envelope containing a piece of rope from the crime scene with a knotITEM(S) SUBMITTED BY THE WEST MEMPHIS POLICE DEPARTMENT ON 11-5-93:

E168 Two (2) envelopes containing pulled and cut head hair samples from Rickey L. Murray

STATE CRIME LABORATORY

P.O. BOX 5274
Number 3 Natural Resources Drive
Little Rock, Arkansas 72216

21003-004

Laboratory Services
227-6747

REPORT OF LABORATORY ANALYSIS

Medical Examiner
227-6096

Investigating Officer/Agency/Address

Laboratory Case Number: 93-05716
Date Received in Lab: See Below
How Evidence Received: See Below
Agency Case Number: 93-05-0666

Page 2 of 3

Det. B. Ridge
West Memphis Police Department
100 Court Street
West Memphis, AR 72301

SUPPLEMENTAL REPORT

Suspect(s):
Damien Wayne Echols
Jason Baldwin
Jessie Misskelley

Victim(s):
James Michael Moore

Date of Report: 01/17/94

ITEM(S) SUBMITTED BY THE WEST MEMPHIS POLICE DEPARTMENT ON 11-18-93:

E169 One (1) black handled survival type knife

ITEM(S) SUBMITTED BY THE WEST MEMPHIS POLICE DEPARTMENT ON 12-1-93:

E170 One (1) brown leather shoe
E171 One (1) brown boot
E172 One (1) piece of black cloth
E173 One (1) piece of cloth with a piece of elastic
E174 One (1) sock and one (1) shoe
E175 One (1) small red wind breaker

ITEM(S) SUBMITTED BY MYSELF (LISA D. SAKEVICIUS) ON 12-20-93:

CB1 One (1) red sweatshirt and one (1) black T-shirt
MM1 One (1) red shirt and one (1) pair of black pants
MM2 One (1) red sweatshirt and one (1) red and white T-shirt

ITEM(S) SUBMITTED BY THE WEST MEMPHIS POLICE DEPARTMENT ON 12-22-93:

E176 One (1) knife found near crime scene
E177 One (1) plastic bottle containing cigarette butts

RESULTS OF ANALYSIS:

Fiber comparisons were performed between CB1, MM1, MM2 and fibers previously found similar to items in this case (reference report dated 6-29-93).

STATE CRIME LABORATORY

P.O. BOX 5274
Number 3 Natural Resources Drive
Little Rock, Arkansas 72215

Laboratory Services
227-5747

REPORT OF LABORATORY ANALYSIS

Medical Examiner
227-5096

Investigating Office/Agency/Address

Det. B. Ridge
West Memphis Police Department
100 Court Street
West Memphis, AR 72301

Laboratory Case Number: 93-05716
Date Received in Lab: See Below
How Evidence Received: See Below
Agency Case Number: 93-05-0666

Page 3 of 3

SUPPLEMENTAL REPORT

Suspect(s):
Damien Wayne Echols
Jason Baldwin
Jessie Misskelley

Victim(s):
James Michael Moore

Date of Report: 01/17/94

The red shirt in MMI was constructed of red cotton fibers which were microscopically similar to the red cotton fibers recovered from E1, E3 and BR1. These fibers could have come from the red shirt in MMI.

It is pointed out that fibers do not possess a sufficient number of unique microscopic characteristics to be positively identified as having originated from a particular item to the exclusion of all other similar items.

The hair samples E152, E153, E154, E155, E156, E157, E158, E159, E160, E161, E162, E163 and E168 were compared to the questioned hairs in FP5 (93-05717) and FP8 (93-05718). The questioned hairs in FP5 (93-05717) were found to be microscopically similar to the hairs in E156. E156 cannot be excluded as a possible source for these hairs.

It is pointed out that hairs do not possess a sufficient number of unique microscopic characteristics to be positively identified as having originated from a particular item to the exclusion of all other similar items.

Examination of the cigarette butts in E177 revealed them to be consistent with Sherman's 164 - Hard Pack. The possibility that the cigarettes were hand rolled could not be eliminated.

Examination of the remainder of the items listed in this report was unremarkable.

Lisa D. Sakevicius
Lisa D. Sakevicius, Criminalist

LDS:11

State of Arkansas
County of Pulaski

Subscribed and sworn to before me, the undersigned Notary Public on this 18 day of January, 1994.

My Commission Expires 7-30-2003

EXHIBIT C

**May and July, 1993, State Laboratory Transmittal, and Genetic
Design Report with August 2002 State Laboratory Explanation**

ARKANSAS STATE CRIME LABORATORY

DIS



May 19, 1993

Genetic Design, Inc.
7017 Albert Pick Road
Greensboro, N.C. 27409

RE: DNA Analysis

The following samples have been requested for possible DNA analysis by
Inspector Gitchell, West Memphis (AR) Police Department (501)732-7555:

Agency Case #: 93-05-0666
Serology Case #'s: 93-05716/93-05717/93-05718
Type of Offense: Triple Homicide
Victim's: Christopher Byers, w/m, DOB: 6-23-84
James Michael Moore, w/m, DOB: 7-27-84
Steve Branch, w/m, DOB: 11-26-84

Suspect's: Damlen Wayne Echols, w/m, DOB: 12-11-74
Richard G. Cummings, w/m, DOB: 3-6-70

Enclosed are the following items:

- K1 Blood sample from James M. Moore
- K1 Blood sample from Christopher Byers
- K1 Blood sample from Steve Branch
- K2 Blood sample from Damlen W. Echols
- K4 Blood sample from Richard Cummings

- Q6(2S) Cuttings from blue jeans: questioned stain
- Q10(1S) Cuttings from blue jeans: questioned stain
- Q37 Possible tissue recovered from knife
- Q4 Possible tissue recovered from ligature from Christopher Byers
- Q39 Possible tissue recovered from ligature from James Michael Moore


Kermit B. Channell II, Serologist

KBC:11

#3 Natural Resources Drive, P.O. Box 5274, Little Rock, Arkansas 72215



FORENSIC CASE REPORT
July 13, 1993

7017 ALBERT PICK ROAD
GREENSBORO, NC 27409-0654

D1354

Kermit B. Channell, II
Serologist
Arkansas State Crime Laboratory
#3 Natural Resources Drive
Little Rock, AR 72215

On May 24, 1993, our laboratory received from you the following ten (10) items of evidence:

- 1. K1 Blood sample from James M. Moore.
- 2. K1 Blood sample from Christopher Byers.
- 3. K1 Blood sample from Steve Branch.
- 4. K2 Blood sample from Damien W. Echols.
- 5. K4 Blood sample from Richard Cummings.
- 6. Q6(2S) Cuttings from blue jeans: questioned stain.
- 7. Q10(1S) Cuttings from blue jeans: questioned stain.
- 8. Q37 Possible tissue recovered from knife.
- 9. Q4 Possible tissue recovered from ligature from Christopher Byers.
- 10. Q39 Possible tissue recovered from ligature from James Michael Moore.

On June 7, 1993, we received the following three (3) items of evidence for comparison:

- 1. K33 Blood sample from Steve Menard.
- 2. Q52(1B) Human blood recovered from shirt.
- 3. Q52(2B) Human blood recovered from shirt.

As requested, all thirteen (13) items of evidence were analyzed using HLA DQ α PCR DNA analysis. All PCR analysis was performed in duplicate with both positive and negative controls incorporated into the procedure. Human quantitation blots failed to detect the presence of human DNA in items Q37, Q4, and Q39. DNA isolated from the blue jeans (Items Q6 and Q10) could not be amplified due to inhibition. The results of the analysis are shown in Attachment #1. The HLA DQ α type 1.1, 3 obtained from the two cuttings from the shirt (Items Q52[1B] and Q52[2B]) is consistent with the type obtained from Steve Menard and occur in 2.7% of the North American Black population and 5.3% of the North American Caucasian population.

Sincerely,

GENETIC DESIGN, INC.

Michael DeGuglielmo
Director, Forensic Analysis

Julie A. Gundersen
My commission expires
8-12-97

Attachment #1

ARKANSAS STATE CRIME LABORATORY

Mike Huckabee
Governor

Stidham Law Firm, P.A.
500 West Court St.
P.O. Box 856
Paragould, Arkansas 72451

August 21, 2002

RECEIVED
AUG 23 P.M.



James T. Clark
Executive Director

Dear Daniel T. Stidham:

I received your letter regarding the conversation that took place with Ms. Spencer and me. In order to avoid any confusion, the following information regarding your inquiries is listed below.

In 1993 and 1994, the Arkansas State Crime Laboratory did not conduct DNA testing on forensic casework. All DNA analysis through 1995 was sent out to outside agencies (private laboratories or the FBI laboratories) when requested.

In 1995, the Arkansas State Crime Laboratory received a grant to establish a DNA laboratory utilizing PCR technology. Casework using this technology began at the State in early 1996.

PCR technology is useful in that it allows testing of smaller amounts of samples that are typically encountered in forensic casework.

Legislation was enacted in 1997 which established a database of offenders convicted of certain offenses (Act 737 of 1997). Crime scene samples, in which adequate DNA profiles are obtained, are entered into and searched against the local and national database. This database is useful to connect serial crimes (case to case links or hits) or associate a crime scene sample, in which no suspect is known, to a previously convicted offender.

The Arkansas State Crime Laboratory is in the process of establishing Mitochondrial DNA technology. This technology is very sensitive but not as informative as Nuclear DNA.

Please feel free to contact me if there are any questions.

A handwritten signature in black ink, appearing to read "Kermit B. Channell II".

Kermit B. Channell II

#3 Natural Resources Drive · P.O. Box 8500 · Little Rock, Arkansas 72215

Fax 501-227-0713
Phone 501-227-5747
Laboratory Services

Fax 501-221-1653
Phone 501-227-5747
Medical Examiner