

MISSK.MOT/DTS:vgk
93-284/10-14-93

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CRIMINAL DIVISION

FILED
clock _____

STATE OF ARKANSAS

PLAINTIFF OCT 25 1993

VS.

NO. CR-93-516, 517, 518 AVON MOHRIS, CLERK

JESSIE LLOYD MISSKELLEY, JR.

DEFENDANT

MOTION TO COMPEL DISCLOSURE OF
DISCOVERY INFORMATION

COMES the Defendant, Jessie Lloyd Misskelley, Jr.,
by and through his court-appointed attorneys, Stidham &
Crow, and for his Motion to Compel Disclosure of
Discovery Information hereby states:

1. The Defendant, Jessie Lloyd Misskelley, Jr.,
is charged with three (3) counts of capital murder.

2. The Defendant has previously, informally,
requested the following relevant discovery information
from the prosecution:

a. information in possession of the West
Memphis Police Department involving crimes
from around the nation that are similar to
the homicides which are the subject of this
case; and

b. the complete personnel files of the
officers of the West Memphis Police
Department who participated in the
interrogation of the defendant, Jessie

Lloyd Misskelley, Jr., which lasted some ten (10) to twelve (12) hours.

3. The prosecution has refused to disclose this information which is material and vital to the defense of the charges filed herein against the defendant, Jessie Lloyd Misskelley, Jr.

4. The requested information is certainly relevant to the defense of the charges against the defendant in that the Defendant has previously filed a Motion to Suppress and an Amended Motion to Suppress statements made by the Defendant alleging that they were violative of the Defendant's constitutional rights in that they were subsequent recordings of prior involuntary, illegal, unlawful and unconstitutionally obtained alleged oral statements which were taken in violation of the Defendant's constitutional rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and the fact that evidence of similar crimes is admissible under certain circumstances under Arkansas Law.

5. That the Defendant refers the Court to Rule 17 of the Arkansas Rules of Criminal Procedure governing discovery in a Criminal prosecution and to the case of Zinger v. State, 313 Ark. 70 (1993), whereby the

Arkansas Supreme Court outlined the admissibility of evidence of "Similar Crimes" in criminal cases.

6. That the Defendant anticipates that the State will argue that disclosure of the information regarding similar child murder cases from around the Country might jeopardize the investigation or prosecution of said cases. The Defendant submits that disclosure of this information is both relevant and material to preparation of his defense, and further that his right to a fair trial and due process of law far outweigh any governmental interest sought to be protected by the prosecution. The Defendant also submits that the Court could easily protect the prosecution's concerns by the issuance of a protective Order restricting the release of said information by the defense teams.

7. That the Defendant anticipates that the State will argue that disclosure to the defense of the information contained in the interrogating officers personnel files would be embarrassing or intruding into the officers privacy. The Defendant submits that disclosure of this information is both relevant and material to preparation of his defense, and further that his right to a fair trial and due process of law far outweigh any governmental interest sought to be

protected by the prosecution. The Defendant further submits that any potential embarrassment incurred by an officer would amount to a mere inconvenience compared to the ultimate jeopardy being faced by the Defendant, that of course, being the Death Penalty. In any event, the prosecution's concerns regarding the officers could easily be protected by the issuance of a protective Order restricting the release of said information by the defense teams.

8. The Defendant, Jessie Lloyd Misskelley, Jr., states that under the notions of his Constitutional guarantee of a fair trial, his right to confront the witnesses against him, due process and equal protection of laws, he should be afforded the opportunity to obtain the information requested herein.

WHEREFORE, the Defendant, Jessie Lloyd Misskelley, Jr., prays for an Order of this Court compelling the prosecution to disclose the information requested herein as same is both relevant and material to the preparation of his defense, and to protect his right to a fair trial, his right to confront the witnesses against him, and his rights to due process and equal protection of the law, and for all other proper relief to which he may be entitled.

MISSK.MOT/DTS:vgk
93-284/10-14-93

Respectfully submitted,

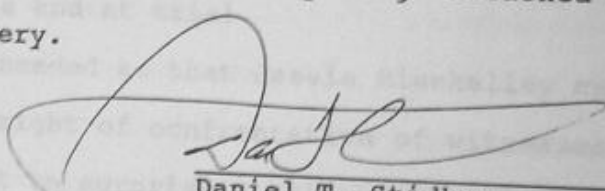
STIDHAM & CROW
Attorneys for Defendant

BY: 

Daniel T. Stidham
Bar No. 88051
203 N. Second Street
P.O. Box 856
Paragould, AR 72451
(501) 236-7600

CERTIFICATE OF SERVICE

I, Daniel T. Stidham, Attorney for the Defendant herein, do hereby certify that I have served a copy of the foregoing Motion upon John Fogleman, Deputy Prosecuting Attorney, P.O. Box 1666, West Memphis, Arkansas 72303, and all other attorneys of record, by placing same in the U.S. Mail this 18 day of October, 1993 with sufficient postage attached to ensure delivery.


Daniel T. Stidham