

1 (WHEREUPON, the audio tape was played in the courtroom as
2 follows, to-wit:)

3 DAN STIDHAM: Today's date is August 19, 1993. Myself, Dan
4 Stidham, at the Clay County Detention Center in Piggot,
5 Arkansas, and in the room with me is Jessie Misskelley, Jr.
6 Approximate time is 11:00 a.m.

7 And Jessie, I guess I just wanted to ask you a few things, go
8 over some of the things that I viewed at the police department
9 on Tuesday. There were some photographs that the police showed
10 me of the creek where the bodies were found. The creek wasn't
11 very wide, is that correct?

12 JESSIE MISSKELLEY: Uh-huh. (Affirmatively indicating)

13 DAN STIDHAM: Do you remember how deep it was?

14 JESSIE MISSKELLEY: It wasn't too deep. I can't remember how
15 deep it was.

16 STIDHAM: Okay. Um, there was a low part of the bank and there
17 was a high part of the bank. Does that pretty much describe it?

18 JESSIE: Uh-huh. (Affirmatively indicating)

19 STIDHAM: Uh, there was some old trees there where the creek
20 went through some tree roots and stuff. Does that sound
21 familiar?

22 JESSIE: Yeah.

23 STIDHAM: Okay. Did you ever at any time see the boys riding
24 bikes?

25 JESSIE: Huh-uh. (Negatively indicating)

- 1 STIDHAM: You ever see their bikes?
- 2 JESSIE: I - I don't know what color their bikes were.
- 3 STIDHAM: Well did you ever see them on their bikes that day at
4 all?
- 5 JESSIE: I never seen them before.
- 6 STIDHAM: So, you'd never seen the boys before?
- 7 JESSIE: Huh-uh. (Negatively indicating)
- 8 STIDHAM: So, when you first seen them that day they weren't
9 riding bikes, they were on foot?
- 10 JESSIE: No, they was on their bikes.
- 11 STIDHAM: They were on their bikes?
- 12 JESSIE: Uh-huh. (Affirmatively indicating)
- 13 STIDHAM: Okay. Do you remember what color they were?
- 14 JESSIE: Red, I think, red and black.
- 15 STIDHAM: One was red and black? What was the other bike?
- 16 JESSIE: I didn't see it.
- 17 STIDHAM: You just seen one bike?
- 18 JESSIE: Uh-huh. (Affirmatively indicating)
- 19 STIDHAM: Okay. Did you ever touch any of their bikes?
- 20 JESSIE: No.
- 21 STIDHAM: Okay. You left before Damien and Jason did so you
22 didn't do anything with their bikes, did you?
- 23 JESSIE: Huh-uh. (Negatively indicating)
- 24 STIDHAM: When you left, you went up the creek and got out by
25 Blue Beacon?

1 JESSIE: I got on the service road.

2 STIDHAM: Okay, you didn't go back the same way you came in down
3 by the video place?

4 JESSIE: Huh-uh. (Negatively indicating) I went - I went
5 through the service road. (pause) From Blue Beacon and - it
6 was quite a while to walk.

7 STIDHAM: So you left, when you got out to come by the service
8 road by Blue Beacon you just walked back home, by the service
9 road. So you stayed near the interstate almost all the way?

10 JESSIE: Uh-huh. (Affirmatively indicating)

11 STIDHAM: Anybody see you or did you see anybody or recognize
12 anybody?

13 JESSIE: I didn't see nobody I recognized.

14 STIDHAM: Okay. You remember there being a stick out there that
15 day in the creek? One that was kind of long and skinny looked
16 like a maybe a broom handle? But it wasn't a broom handle it
17 was a stick that maybe the bark -

18 JESSIE: I don't - I - never seen one.

19 STIDHAM: - stripped off of it?

20 JESSIE: I don't remember seeing one. I remember Damien carried
21 a one, a stick, a lot. He carried a stick a lot.

22 STIDHAM: What did it look like?

23 JESSIE: It was grooved in the handles and stuff, you
24 know, carved like.

25 STIDHAM: Carved? Let just try and draw a picture of it here.

1 I don't - You don't see a pencil in here anywhere do you?

2 JESSIE: On the desk.

3 STIDHAM: Well, imagine a broomstick, uh, you know a broom stick
4 is obviously made out of something mechanical - a wood lathe.
5 This is kind of a long, skinny stick, and then there's places
6 where the bark has been peeled off. And it's like stripes.
7 Does that sound familiar?

8 JESSIE: Uh-huh. Yeah. I'd say it's about - good bit longer
9 than that.

10 STIDHAM: You're saying Damien carried that around a lot?

11 JESSIE: Yeah, he carried it around a lot - (inaudible)

12 STIDHAM: Did he have it with him that day?

13 JESSIE: I don't remember.

14 STIDHAM: Don't remember if he had it that day or not?

15 JESSIE: I don't remember. Cause I didn't hardly pay attention
16 to him. I just walked. I didn't hardly look at him or
17 nothing.

18 STIDHAM: The bag had the beer cans in it, uh, was a paper sack?

19 JESSIE: Uh-huh. (Affirmatively indicating)

20 STIDHAM: You don't remember what kind of beer it was?

21 JESSIE: Huh-uh. (Negatively indicating)

22 STIDHAM: You remember seeing Damien, or did he actually do
23 anything with the boys' clothes?

24 JESSIE: Huh-uh. (Negatively indicating) Cause when I left
25 they, you know, they was sitting right there beside 'em.

- 1 STIDHAM: Clothes were piled up?
- 2 JESSIE: Uh-huh. (Affirmatively indicating) When I left that's
3 where they was at.
- 4 STIDHAM: You didn't see what Jason did with the knife?
- 5 JESSIE: Huh-uh. (Negatively indicating)
- 6 STIDHAM: What did the knife look like? You told me once before
7 but I want to make sure I understand.
- 8 JESSIE: It's like a - like a Buck - pocketknife - Buck knife.
- 9 STIDHAM: Folds?
- 10 JESSIE: Yeah.
- 11 STIDHAM: About 4 or 5 inches, the whole knife
- 12 JESSIE: Oh, probably about that long. (Indicating)
- 13 STIDHAM: How long was the blade?
- 14 JESSIE: Not counting the ends of it, I would say the blade was
15 about something like that. (Indicating)
- 16 STIDHAM: Six inches or so?
- 17 JESSIE: Without counting the whole thing.
- 18 STIDHAM: And what color handle did it have?
- 19 JESSIE: Brown, darkish brown.
- 20 STIDHAM: Darkish brown? You think you'd recognize that knife
21 if you seen it again?
- 22 JESSIE: Yeah.
- 23 STIDHAM: You ever seen it before that day?
- 24 JESSIE: Not that day, I'd seen it before it though.
- 25 STIDHAM: Where at?

1 JESSIE: At his house. Jason's house.

2 STIDHAM: Where did he keep it?

3 JESSIE: Sometime he carries it around in his pocket and
4 sometime he leaves it in his drawers and stuff. Cause he's
5 always coming up with all kinds of stuff, knives and all that.

6 STIDHAM: Aaron . . . Aaron Hutchison, he lived down the street
7 from you, right?

8 JESSIE: Uh-huh. (Affirmatively indicating)

9 STIDHAM: Still does. He told the police that uh, him and two
10 of the boys that got killed had been going up to Robin Hood
11 Hills and getting up in a tree house, and that they'd been going
12 up there and watching some teenagers have sex at the spot where
13 the murders took place. He says that there's five or six
14 teenagers and sometimes there was girls and sometimes there was
15 just guys screwing each other in the butt. And, uh, sometimes
16 their faces were painted. Do you know anything about that?

17 JESSIE: Huh-uh. (Negatively indicating)

18 STIDHAM: Were you ever at a cult meeting out in county
19 somewhere - not where the murders took place - where there was
20 an orgy or their faces were painted, or anything?

21 JESSIE: I, I never - I ain't never seen nobody's face painted.

22 STIDHAM: Y'all didn't do that when you went to these meetings?

23 JESSIE: Uh-huh. (Negatively indicating) I never - no. Far as
24 I've ever seen peoples' face painted was on TV and stuff, that's
25 it.

1 STIDHAM: Vickie Hutcheson told the police that about a week or
2 two weeks after the murders that you, Damien and Jason, and, uh,
3 some other teenagers went out to a place in the county and had a
4 cult meeting and had a big orgy. That make sense to you at all?

5 JESSIE: Huh-uh. (Negatively indicating)

6 STIDHAM: That didn't happen?

7 JESSIE: Huh-uh. (Negatively indicating)

8 STIDHAM: Damien and Jason were pretty serious about this devil
9 worshiping stuff weren't they?

10 JESSIE: Right.

11 STIDHAM: Were you real serious about it?

12 JESSIE: Huh-uh. (Negatively indicating)

13 STIDHAM: You were just - kinda hanging out? Did you ever see
14 them cut anybody at a devil worshipers meeting?

15 JESSIE: Huh-uh. (Negatively indicating)

16 STIDHAM: -- or, I - I know you talked of places you seen 'em
17 kill dogs and stuff.

18 JESSIE: Yeah - not long after the, you know, before the murder
19 ever happened, I always stayed around my house and people behind
20 me - we always went to Dyess and stuff and practiced wrestling
21 and stuff.

22 STIDHAM: So you didn't do a whole lot of devil worshiping
23 stuff?

24 JESSIE: Huh-uh. (Negatively indicating)

25 STIDHAM: Did you ever see them torture an animal?

- 1 JESSIE: Naw, not walking or anything, with the dogs walking.
- 2 STIDHAM: What would they do, just kill it and tell you about
3 cooking it or something? How many times did you see this?
- 4 JESSIE: About two or three times.
- 5 STIDHAM: So how would they kill - the dog or cat or whatever?
- 6 JESSIE: Cut them by the throat and stuff.
- 7 STIDHAM: Just walk up to it and cut its throat?
- 8 JESSIE: Yeah. But most the dogs right there in the Lakeshore -
9 we knew whose dogs they were and stuff.
- 10 STIDHAM: Okay.
- 11 JESSIE: Because, uh, Aaron always talked about, you know, that
12 he knows everything about the killing and stuff, and Vicki
13 always tells him to shut up cause he don't know cause he wasn't
14 there.
- 15 STIDHAM: You know he wasn't there?
- 16 JESSIE: Right.
- 17 STIDHAM: He told the police that he was there hiding in the
18 trees and seen it all happen.
- 19 JESSIE: He - He lies a lot.
- 20 STIDHAM: Course he also said that you. . . .
- 21 JESSIE: Because Vickie, Vickie don't let him go nowhere. He
22 stays in that trailer park.
- 23 STIDHAM: There's no way that he could have been there that day?
- 24 JESSIE: Nope.
- 25 STIDHAM: Uh, the night before the police came and got you and

1 talked to you, the day you got arrested, you spent the night
2 with Vickie and Aaron?

3 JESSIE: Right.

4 STIDHAM: You knew that you were there the day the boys got
5 killed. Did Vickie ever ask you about it or -- ?

6 JESSIE: She didn't ask me about it.

7 STIDHAM: She apparently had some sort of tape recorder she was
8 trying to tape record you and Jason and Damien in the bedroom
9 talking about -

10 JESSIE: She don't - She don't know Jason. She ain't never seen
11 Jason. She met Damien a couple times. She told me that - that
12 she heard - she saw this dude with black hair, and no shirt on,
13 and uh, she asked me, uh, do I know a dude named Damien. And I
14 said, "yeah." She said does he live out at Lakeshore? I said,
15 yeah. She said, I want to meet him because, you know, cause I
16 want to try to get in that cult, and stuff, too. And then not
17 too long ago she started getting - went to the library and
18 getting books on witchcraft and all that, and uh, I - I saw her
19 - I asked her, you know, do you want him to come over and meet
20 you or something. One day we went over and got uh, Damien, and
21 he came over to her house and they talked, and stuff. Sometime
22 they wouldn't hardly say nothing.

23 STIDHAM: Was Jason there that day?

24 JESSIE: Huh-uh. (Negatively indicating)

25 STIDHAM: Just you and Damien?

1 JESSIE: Cause Vickie always told all - didn't want nobody to
2 know that she's like'n Damien. She always make up a excuse
3 that she's going to the store or something, or she's got to
4 carry me somewhere, she went by Jason's house and got Damien.

5 STIDHAM: So then she's telling the police all this stuff just
6 to get attention?

7 JESSIE: I don't know, cause Damien, when they pick me up they
8 told me that uh, Vickie came up there not too long, you know,
9 not even awake I don't think, they told me that Vickie was up
10 there.

11 STIDHAM: Let's talk about, uh, the day that they picked you up.
12 You were over there and the day your dad came and got you over
13 at Vickie's house and took you to the police station. Is that
14 right?

15 JESSIE: Um. They came to Vicki's house, got me and I was
16 asleep. They came and got me and told me that, that, uh, there
17 was a police officer wanted to talk to me and stuff, and they
18 told me about the guy that, uh we seen, and I said all right. I
19 said where's he at? They said at the shop. So I said well I've
20 got to go get me some, uh, some more clothes on and stuff, so I
21 came back to my house and put me on some shorts and a t-shirt
22 and then came to the shop and I got in the car with, uh, Mike
23 Allen.

24 STIDHAM: Mike Allen?

25 JESSIE: Uh-huh. (Affirmatively indicating)

1 STIDHAM: Is he a detective?

2 JESSIE: I guess, I don't know.

3 STIDHAM: Did he have a uniform on or just plain clothes?

4 JESSIE: It - something like yours.

5 STIDHAM: Okay.

6 JESSIE: And he talked to me for a while and then we was going
7 back to get my dad's signature.

8 STIDHAM: Take the lie detector test?

9 JESSIE: Uh-huh. (Affirmatively indicating) And then we met him
10 and my dad signed it.

11 STIDHAM: Did they at any time ever - threaten you, or, or twist
12 your arm or pull their guns out of their holsters or anything to
13 make you say something you didn't want to say?

14 JESSIE: They was sitting and talking to me, one of them did,
15 'cause you know the test, you know, they let you know if, you
16 know, you're lying or anything.

17 STIDHAM: Did they tell you that they knew you were lying on the
18 lie detector?

19 JESSIE: Hmm. (Unintelligible)

20 STIDHAM: Did they tell you?

21 JESSIE: They told me I was lying and stuff, I said "no," and
22 then, uh, my nerves got all, you know how it is when your nerves
23 get all messed up. You just go blank. That's what it did.

24 STIDHAM: And they told you that you flunked the lie detector
25 test?

1 JESSIE: He told me that, uh, there were some parts I lied
2 about, and stuff. I can't remember.

3 STIDHAM: Okay. So basically what you're saying is that you
4 basically volunteered what you told them, you told them what
5 happened and they didn't force you to do it?

6 JESSIE: Huh-uh. (Negatively indicating)

7 STIDHAM: Is that what you're saying?

8 JESSIE: Right.

9 STIDHAM: Okay. Did they make you any promises, talk about
10 giving you the \$30,000 reward?

11 JESSIE: Huh-uh. (Negatively indicating)

12 STIDHAM: Or say they'd let you go home if you just told them
13 what happened?

14 JESSIE: They didn't say nothing. They just said you tell me
15 what we need to know, and stuff, and we'll help you - and stuff.

16 STIDHAM: So, let me tell you what Detective Ridge told me and
17 you tell me if that's pretty much what happened. He said that -
18 you remember who Detective Ridge is? He's kinda -

19 JESSIE: I - I - I remember the name, I can figure out what he
20 looks like.

21 STIDHAM: You remember Inspector Gitchell?

22 JESSIE: Uh-huh. (Affirmatively indicating)

23 STIDHAM: He said that him and Ridge were talking to you and
24 they asked you how you felt after you found out about the
25 murders, and they said that you went out in the woods and was

1 crying. And they - he said that after you said that, they kind
2 of thought that maybe you had something to do with this and so
3 they started asking you about, uh, that when they showed you the
4 pictures of the boys -

5 JESSIE: Hmm. (No indication)

6 STIDHAM: They showed you a picture of the boys?

7 JESSIE: They showed me, they said we've got a picture of one of
8 them boys, and they showed me and, asked me and I started
9 telling them stuff, talking to them before they even asked me.

10 STIDHAM: Were you crying and upset when you seen the picture?

11 JESSIE: Uh-huh. (Affirmatively indicating) I started crying and
12 they tapped me on my shoulder and said it'd be okay.

13 STIDHAM: They just asked you to tell them everything that
14 happened?

15 JESSIE: And, uh, Ridge, he told me that when I was talking to
16 'em, he told me that, he said, naw, he said we're going to make
17 sure that you, uh, you get, uh, electrocuted.

18 STIDHAM: He said that you were going to get electrocuted?

19 JESSIE: Uh-huh. (Affirmatively indicating) That's what he told me,
20 that they're going make sure that they get a needle stuck in my arm
21 and stuff.

22 STIDHAM: Did he say that before you told him what happened? Or
23 after?

24 JESSIE: After. [

25 STIDHAM: So after you told -

1 JESSIE: 'Cause it was - it was in the - it was like in the
2 morning that he told me that. I was up front and that's when he
3 told that, that he was going to make sure that I get a needle
4 stuck in my arm. And stuff.

5 STIDHAM: That was after you told him what happened?

6 JESSIE: Uh-huh. (Affirmatively indicating) 'Cause he kept on
7 asking me and asking me and asking me stuff, when they carried
8 me back down.

9 STIDHAM: I want to make sure I understand. After you did the
10 lie detector test, they told you weren't telling the truth?

11 JESSIE: Right.

12 STIDHAM: Then they asked you how you felt after the murders and
13 you said that you went in the woods and started crying. Then
14 they showed you the picture of one of the little boys' bodies.
15 Then you got upset and you said I'll try to tell you what
16 happened.

17 JESSIE: Right.

18 STIDHAM: Then you told them what happened on the tape, right?

19 JESSIE: Right. And then I went, and they carried me up front -

20 STIDHAM: Up front of the police department?

21 JESSIE: Uh-huh. (Affirmatively indicating) And they asked me
22 about, uh, you know, they said, your dad told us if we'd really
23 get on to you, you'll tell us the truth. I said, okay, I tell
24 you the truth, and I started talking to them and then they said,
25 naw, you're lying, you're lying.

1 STIDHAM: This was after you told them the first time?

2 JESSIE: Right.

3 STIDHAM: Was the tape recorder on then?

4 JESSIE: Huh-uh. (Negatively indicating)

5 STIDHAM: The first time you told them?

6 JESSIE: The first time I told them the tape - they didn't have
7 the tape recorder. The second time I told them, they had a tape
8 recorder.

9 STIDHAM: So, after they showed you the picture and you tell
10 them what happened, they took you out front, and then they told
11 you that your dad said if they got on you hard enough you'd tell
12 them the truth, and they said you were lying, so then they took
13 you back in, right?

14 JESSIE: I was up front, still in the building.

15 STIDHAM: Okay.

16 JESSIE: I started talking to them and Detective Ridge said,
17 "naw, you're lying," and stuff like that and I said no I'm not
18 and I started crying, and they told me that, uh, they going to
19 make sure I get electrocuted. What he told me.

20 STIDHAM: Okay, and then, uh, you went back there to the office
21 with Inspector Gitchell?

22 JESSIE: Detective Gitchell was in there with us.

23 STIDHAM: Okay. And so you were still out front though?

24 JESSIE: Uh-huh. (Affirmatively indicating)

25 STIDHAM: So Ridge told you he was going to make sure you got

1 the electric chair?

2 JESSIE: Yeah, he came - after that, they came back down to my -
3 to where I was at.

4 STIDHAM: In his office, Inspector Gitchell's office? Or was it
5 just somebody else's office, or a room, or do you remember?

6 JESSIE: I went back down -

7 STIDHAM: Was it down the hall towards the back of the building?

8 JESSIE: I went back down in the cell.

9 STIDHAM: Went down to the cell?

10 JESSIE: Where I spent the night at.

11 STIDHAM: Okay. So when did they turn the tape record on then?

12 JESSIE: It was during the day when they picked me up.

13 STIDHAM: Okay, so now I'm confused because you told me that

14 after they showed you the picture that you got upset and told them

15 what happened. Did they have the tape recorder on then?

16 JESSIE: Huh-huh. (Negatively indicating) Not when they showed
17 me the picture.

18 STIDHAM: Okay.

19 JESSIE: It was during the day when they picked me up.

20 STIDHAM: They had the tape recorder on? You didn't tell them
21 what happened, the real story of what happened until after they
22 showed you the picture, right?

23 JESSIE: Right.

24 STIDHAM: So, did they turn the tape recorder on then after you
25 told them?

1 JESSIE: After they showed me the picture then they got a tape
2 recorder, then they asked me again, and I told them.

3 STIDHAM: To tell them what happened.

4 JESSIE: Uh-huh. (Affirmatively indicating)

5 STIDHAM: Okay. Did they tell you you were going to get the
6 electric chair after you gave the taped statement, or before.

7 JESSIE: After.

8 STIDHAM: Okay.

9 JESSIE: But - after that day I told them I wanted to go to bed
10 and then they said okay. Then that morning they woke me up,
11 carried me up front, and then that's when they asked me that.

12 STIDHAM: Asked you what?

13 JESSIE: That I was going to get that, uh, electric chair.

14 STIDHAM: So that was the next day, or the next morning?

15 JESSIE: Uh-huh. (Affirmatively indicating)

16 STIDHAM: After you gave the statement. Okay.

17 Okay, Uh . . . Jason ever carry that (unintelligible) knife to
18 school? Course, you weren't in school with him, were you?
19 You'd already quit school, right?

20 JESSIE: Uh-huh, I just quit school last year.

21 STIDHAM: So you didn't go to school at all last year?

22 JESSIE: Huh-uh. (Negatively indicating) I came back -

23 STIDHAM: I need to ask you about this. They found a t-shirt at
24 your house, a grey t-shirt that had blood on it. Do you know
25 anything about that?

- 1 JESSIE: Grey t-shirt? I got a - couple grey t-shirts, I don't
2 know where they were. There's one I wear.
- 3 STIDHAM: You weren't wearing a grey t-shirt that day, were you?
- 4 JESSIE: Huh-uh. (Negatively indicating)
- 5 STIDHAM: You were wearing a black one weren't you.
- 6 JESSIE: White.
- 7 STIDHAM: White, that's right, had a basket ball on the front?
- 8 JESSIE: Uh-huh. (Affirmatively indicating)
- 9 STIDHAM: Can you explain why a grey t-shirt had blood on it at
10 your house?
- 11 JESSIE: I always - every time I get mad at my daddy for
12 something - I always go out and hurt myself.
- 13 STIDHAM: Hurt yourself?
- 14 JESSIE: Bustin' bottles, and stuff. I usually hurt myself.
- 15 STIDHAM: Hit them with your fist or something?
- 16 JESSIE: Uh-huh. (Affirmatively indicating)
- 17 STIDHAM: That's probably what the blood was on the t-shirt?
- 18 JESSIE: Either that or uh, I did something with wrong with or
19 something, I always cut myself (unintelligible).
- 20 STIDHAM: Did, uh, did you have any blood on your shirt
21 or clothes that day out there?
- 22 JESSIE: Huh-uh. (Negatively indicating)
- 23 STIDHAM: After the murders happened you say you only ran into
24 Damien one time?
- 25 JESSIE: After the - the - the murders, I ran into him couple ...

1 five or six times, maybe.

2 STIDHAM: Did he brag about it or talk to you about it?

3 JESSIE: Huh-uh. (Negatively indicating)

4 STIDHAM: Just kind of didn't say anything about it at all.

5 JESSIE: Didn't say a word to him.

6 STIDHAM: Do you know anything about this tree house that Aaron
7 was talking about being out there?

8 JESSIE: Huh-uh. (Negatively indicating) No, I - I didn't see
9 the tree house out there where we was at. I never did look up
10 in the trees or anything.

11 STIDHAM: Was there a lot of blood there on the ground?

12 JESSIE: I don't know -

13 STIDHAM: - out there where they were hitting them with sticks
14 and stuff?

15 JESSIE: Yeah, there was a lot of blood.

16 STIDHAM: A little bit or a whole lot or ...?

17 JESSIE: I'd say a lot.

18 STIDHAM: Okay. And that was at the low bank of the creek -

19 JESSIE: Uh-huh. (Affirmatively indicating)

20 STIDHAM: - which would be on this side going toward Blue
21 Beacon?

22 JESSIE: Right.

23 STIDHAM: That's where actually all the hitting and cutting took
24 place?

25 JESSIE: Yeah.

1 STIDHAM: Then where the little boy was when Jason cut him? Was
2 he laying on the ground there? Or -

3 JESSIE: He was laying on the ground there. Can't remember
4 whereabouts, not unless if I was there to see it I could say
5 whereabouts.

6 STIDHAM: Okay. And when he cut his thing off you don't know
7 what happened to it, did you see him throw it?

8 JESSIE: I seen him sling his arm that way. (Indicating)

9 STIDHAM: Was it towards the creek or towards that way, or?

10 JESSIE: Towards, like, the woods and stuff.

11 STIDHAM: So he didn't throw it like toward the creek?

12 JESSIE: Huh-uh. (Negatively indicating)

13 STIDHAM: Okay. You know anything about Jason having a pair of
14 pants that says killer or (unintelligible) on it? Do you know
15 anything about that?

16 JESSIE: Huh-uh. I - I - since, where I live right now I don't
17 hardly - you know - talk with Jason or anything, not unless I
18 call him on the phone and stuff.

19 STIDHAM: Well, let me tell you, I've seen the photographs of
20 the bodies, and the injuries, and especially to the one to the
21 Byers boy, he got his thing cut off, especially, especially
22 gruesome. And when a . . . when a jury sees that they're going
23 to be very, very angry and upset, uh, you know, as I told you
24 before, they've got you charged with capital murder, and when a
25 person is charged with capital murder, the only two punishments

1 supported by law are death by elec - or actually it's death by
2 lethal injection, they don't have the electric chair anymore,
3 or, life in prison without the possibility of ever getting out
4 on parole. No parole. Those are the only two things that could
5 happen if the jury finds you guilty of capital murder. The
6 prosecutor called me the other day and said that if you would be
7 willing to testify against... Stopped?

8 JESSIE: Still on.

9 STIDHAM: Okay. I'm going to leave it on. Uh, you realize that
10 I'm taping this conversation? Okay? Uh, he called and said
11 that if you'd be willing to testify and help with the case that
12 he would, uh, recommend that you get life in prison with the
13 possibility of getting paroled. He would waive the death
14 penalty, you wouldn't have to worry about the jury giving you a
15 death sentence, and you wouldn't have to worry about staying in
16 prison without the possibility of parole. He said that he would
17 let you basically be sentenced to first degree murder, uh, and
18 give you life with the possibility of getting paroled some day.
19 Now. Let me explain to you, basically what that means. Life in
20 prison means that the governor can commute your sentence to a
21 specific number of years. I doubt seriously, Jessie, if any
22 governor in the state would ever do that considering the nature
23 of the crime and those little boys' bodies, and those parents of
24 those little boys are going to be screaming at the governor not
25 to do that, so, basically, life in prison could mean the same

1 thing as life in prison without parole. We've got to make a
2 decision here pretty quick about what we're going to do, cause
3 if we're not going to take their offer, then we need to start
4 getting a defense ready. (pause) How do you feel about the
5 life? Doesn't get to the first degree murder and getting life
6 in prison with the possibility of getting out someday, because
7 if the jury gets mad at those pictures they could give you life
8 without parole or even the death sentence. Do you understand
9 the difference?

10 JESSIE: Yeah.

11 STIDHAM: I told the prosecutor that, uh, I would prefer that
12 you plead guilty and get a certain number of years, that way you
13 know exactly someday when you're going to get out. You can
14 calculate it and say, I got to do this much time and this is my
15 release date. And, he said he wasn't interested doing that. He
16 said I can recommend life, but I can't recommend a certain
17 number of years. I told him that I didn't think you'd be
18 interested in life because I don't think the governor would ever
19 commute it. But that's your decision and not mine and I can't
20 make it for you, all I'll do is lay out the options for you.

21 JESSIE: I - I - I don't want to do too much time. You know, I
22 don't want to be lying to an attorney.

23 DAN STIDHAM: Well.

24 JESSIE: You know I understand how, about what you're saying.

25 STIDHAM: Do you understand that this is a very, very serious

1 situation? There's those little boys here are dead, one of
2 which was mutilated, and that a jury is going to take that very
3 serious, do you understand that?

4 JESSIE: Uh-huh. (Affirmatively indicating)

5 STIDHAM: Do you also understand that if the prosecutor makes a
6 recommendation of a certain number of years, that it's probably
7 going to be a lot of years, it's not going to be five, ten
8 years, it's probably going to be more like forty.

9 JESSIE: Yeah, I understand.

10 STIDHAM: Now, if you got a 40-year sentence, you wouldn't serve
11 40 years, you would serve probably half - 20 years. You're 18
12 now and in 20 years you'll be 38, but at least you'll be getting
13 out someday. Cause the chance even on a 40 year sentence that
14 you may only serve 10 years. But if you go down there, keep
15 your nose clean and don't get into any trouble you can get out.
16 See, we're not talking about just going for a week or two or a
17 month or two or a year or two, we're talking about a lot of
18 years here, Jessie, and, you know, if the prosecutor comes back
19 and says uh - I don't know that he will, he may not make another
20 offer - he said life in prison was his best offer, take it or
21 leave it. Uh, but if he comes back and says it'll be 40 years,
22 or 50 years, would you be willing to consider that?

23 JESSIE: I don't want to spend, you know, almost all my life in
24 jail. You know, in prison.

25 STIDHAM: I don't want you to either. You know, on a 40 year

1 sentence you might serve 12 years, 15 years, uh, you know that's
2 a long time, but at least you're going to get out. If it goes
3 the other way and that jury, I'm telling you Jessie, that jury
4 may...(end of tape.)

5 THE COURT: Is that the end of it?

6 MR. RAUPP: No, it picks up on the other side of
7 the tape.

8 THE COURT: Let's take a recess. Court will be
9 in recess ten minutes.

10 (WHEREUPON, a recess was taken; proceedings resumed as follows,
11 to-wit:)

12 THE COURT: All right, go ahead.

13 STIDHAM: Jessie, the tape ran out. It's now 11:37. The tape
14 ran out and the last part of our conversation didn't get
15 recorded. We had talked about we think the prosecutor has made
16 this offer of life without - life with the chance of getting
17 parole, and let me plead first degree murder. You indicated to
18 me that you wouldn't be willing to consider that - somewhere in
19 the regular 50-year sentence knowing that you would have to
20 serve all of that, of course, is that correct?

21 JESSIE: Yes.

22 STIDHAM: So, when you say 25 or 20 or 25 years, that'd be the
23 equivalent of a 40 or 50 year sentence. You
24 understand that, right. Under the current guidelines, under a
25 Class Y felony you'd have to serve half of your sentence before

1 you're eligible for parole. So, on a 30 years sentence you're
2 looking at 15 years, on a 40-year sentence you're looking at 20
3 years, and on a 50-year sentence you're looking at 25. Do you
4 understand that?

5 JESSIE: (inaudible)

6 STIDHAM: So, what you're saying then is that you want me to
7 tell the prosecutor you're not interested in the life sentence,
8 but you would be interested in a number of years sentence, and
9 you would be willing to consider somewhere around 40 to 50
10 years? That's what you're saying?

11 JESSIE: Right.

12 STIDHAM: Okay. So that - that's what I'm going to do then, is
13 I'm going to tell the prosecutor that we're not interested in
14 his offer, and, uh, we'll go from there. Okay? I'm going to
15 talk to your dad, and I'm going to get him back up to talk to
16 you and the three of us will sit down and talk about this, and,
17 because if we don't get a deal made we're going to have to start
18 getting ready for trial. You're doing real good. You're not
19 talking to anybody and you haven't been talking to anybody in
20 here have you? About the case? Don't do it, it's just, you
21 need to maintain your silence, don't talk to anybody about the
22 case but me and Mr. Crow, and right now, under the
23 circumstances, things seem to be going pretty well. The
24 confession is what's hurting us right now. And we'll get back
25 with the prosecutor and talk to him and when I hear from him

1 back I'll get your dad up here and the three of us will sit down
2 and talk about it some more, okay?

3 JESSIE: All right.

4 STIDHAM: Okay. Well, it's 11:40, on August 19, 1993. And I
5 conclude this tape now. Oh. One more question. If you seen a
6 picture of this stick that you said Damien carried around, would
7 you recognize it?

8 JESSIE: Uh-huh. (Affirmatively indicating)

9 STIDHAM: Okay. All right, uh, I'll be back in touch with you
10 in a few days.

11 (WHEREUPON, the audio tape was concluded; proceeding resumed as
12 follows, to-wit:)

13 CROSS-EXAMINATION, continuing:

14 Q] Mr. Stidham, that taped conversation that we just heard,
15 that took place where?

16 A] In the Clay County Detention Center in Piggott.

17 Q] Okay. And what officer there in that facility; do you
18 recall?

19 A] Normally, we were in the, uh, I don't know how they refer
20 to it or what they call it; actually, I called it "the big room"
21 where the TV was and, you know, they all played cards. There
22 were little round picnic tables with chairs built in and it was
23 completely empty. That was why there was such a big echo on the
24 tape.

25 Q] Okay. And the door was closed and that was a private