

1 MR. STIDHAM: I just wanted to make that point.

2 (ADJOURNMENT)

3 CORNING, ARKANSAS, JANUARY 26, 1994, AT 9:30 A.M.

4 (THE FOLLOWING CONFERENCE WAS HELD IN CHAMBERS)

5 THE COURT: Let the record reflect this is out of
6 the presence of the jury which hasn't been sworn at
7 this time.

8 Mr. Misskelley, I need to ask you some questions.
9 First of all, today is Wednesday, the 26th, and we are
10 ready to proceed to jury trial and soon as we go out
11 there, the clerk will swear in the jury. Do you
12 understand that?

13 THE DEFENDANT: Um, tell the truth? Is that what
14 you mean?

15 THE COURT: No, I'm asking you do you understand
16 we are about to start your trial?

17 THE DEFENDANT: Oh, yeah, I understand.

18 THE COURT: I need to know if you are satisfied
19 with Mr. Stidham and Mr. Crow's services, to this
20 point.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you discussed with them all of
23 the facts and circumstances of your case so they would
24 be informed to adequately defend you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Have they discussed with you the
2 legal options that you have?

3 THE DEFENDANT: Yes.

4 THE COURT: Have they discussed with you any plea
5 negotiations or offers made by the State?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You have rejected and turned down any
8 offer to plead guilty in this case?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You have been advised of the State's
11 offer, whatever it was -- gentlemen, for the record,
12 what was it?

13 MR. CROW: Fifty years.

14 THE COURT: Have you had an opportunity to
15 discuss that with your father, your parents or anyone
16 else that you choose to besides Mr. Crow and Mr.
17 Stidham?

18 THE DEFENDANT: No, sir.

19 THE COURT: Do you want to talk to anyone else
20 about that?

21 THE DEFENDANT: I'd like to talk to my dad about
22 it.

23 THE COURT: I want to give him a few minutes
24 opportunity to --

25 MR. STIDHAM: I have spoken to his father about

1 that, but the four of us have never sat down together.

2 THE COURT: I want you to do that before we get
3 started.

4 Is there anything else you want to say for the
5 record? Are we ready to proceed?

6 MR. STIDHAM: I would like to know -- we had a
7 discussion with the prosecution on Thursday, the last
8 day that we were convened -- and there was some new
9 evidence that I was told about. I was told where the
10 source of the evidence was, but I was not informed as
11 to the connection to the particular person that we are
12 discussing, and I think it is time I be informed of
13 that officially so I can proceed with the defense of
14 my client. I have done a lot of guessing over the
15 weekend. I have stayed out of the way. I have let
16 the police do their investigation and let the
17 prosecution do their investigation. But this is
18 obviously -- could be some sort of exculpatory
19 information and I demand that I be apprised of the
20 entire situation and of the connection and know what's
21 going on.

22 MR. FOGLEMAN: I think Mr. Stidham knows
23 everything. It may be through surmise but from our
24 conversations it is obvious to me that he does know
25 that we have a statement from one of the people that

1 worked or was an independent contractor for Creative
2 Thinking which is making some kind of movie, that he
3 obtained a knife in question that had what appeared to
4 be blood on it and did turn out to be blood from Mark
5 Byers, who is the father of one of the victims -- or
6 stepfather --

7 MR. CROW: Adoptive father.

8 MR. FOGLEMAN: Adoptive father of one of the
9 victims. And at this point we talked to Genetic
10 Design this morning, and they have indicated, number
11 one, they cannot tell us all of the individual
12 results; for instance, which DQ Alpha type is Mark
13 Byers and Melissa Byers and the son until it actually
14 comes from the director of the corporation. But he
15 did say they could not carry it any further -- their
16 analysis -- than they already had, which showed that
17 the DQ Alpha type of the blood that was found on the
18 knife is what -- can't think of the number -- but
19 anyway it is the same DQ Alpha type as that of Chris
20 Byers.

21 MR. CROW: The victim.

22 MR. FOGLEMAN: The victim, Chris Byers. And that
23 means that according to the expert there are eight
24 percent of the population -- the white or Caucasian
25 population -- that has that particular DQ Alpha type.

1 We also, Mr. Davis and I, have talked to the
2 Medical Examiner in this case and he has indicated
3 that the serrations on this particular knife are not
4 consistent with the serration marks on any of the
5 bodies like this knife that was found in the lake is.

6 MR. STIDHAM: Your Honor, my concern is I know
7 where the police got the knife but I don't know how
8 the Creative Thinking people got the knife.

9 MR. FOGLEMAN: I just said that he gave a
10 statement to the police that Mark Byers gave him the
11 knife.

12 MR. STIDHAM: That's all there is to it?

13 MR. FOGLEMAN: I don't have his statement.
14 Inspector Gitchell has talked to him, and I have not
15 talked to him about the specifics of the statement. I
16 can get him in here, see what he says.

17 MR. STIDHAM: I would like that information.

18 MR. FOGLEMAN: If Mr. Byers has just gotten here,
19 Gary is going to try to interview him.

20 MR. STIDHAM: I certainly don't want to do
21 anything to interfere with that.

22 MR. DAVIS: Judge, one thing. I certainly have
23 nothing against Val or Scott personally and enjoy
24 their company, but since this trial has been severed
25 and they are no longer a party to this trial and I

1 realize that 98 percent of what happens back here may
2 not matter to them one way or another, but I don't
3 think they have any more right to be back here than
4 any attorney anywhere else that isn't involved in this
5 case, and we would object to them being privy and back
6 here during conferences that are out of the hearing of
7 the jury and that during the course of the trial that
8 they be seated -- if they want to observe it, they can
9 observe it where other nonparticipants observe it but
10 not be huddled up there where they can easily confer
11 with defense counsel.

12 If they insist and if they want to do that, then
13 we certainly feel it is our option to inform the jury
14 that Damien's attorneys are up here consorting -- and
15 point out during closing argument and things of that
16 nature that Damien's attorneys are consorting with the
17 defendant, Jessie Misskelley, and his defense team.

18 MR. STIDHAM: Judge, that is the most ridiculous
19 thing I have ever heard in my long distinguished
20 career as an attorney. And I would object -- does
21 that mean Mr. Calvin can't come back here, too?
22 That's ridiculous. They are officers of the Court and
23 they have a stake in the outcome of this. Even though
24 the trials have been severed, they have --

25 THE COURT: I'm going to let them come back.

1 Although we don't have much room, it has kind of been
2 traditional for lawyers who are curious and gawkers
3 even to drift back in the back where conferences were
4 held and to sit off to the side in front of the rail.
5 That happens in every courthouse, although our
6 circumstances are a little bit cramped right now. I
7 don't have any particular problem with them back here.

8 Gentlemen, if you do sit behind the defense and
9 the prosecution wants to point that out, I'm going to
10 allow it. Particularly if you're making whispered
11 conversations or carrying on, they'll certainly be
12 permitted to indicate who you are and you are carrying
13 on conversations and consulting so you might out of
14 better interest for your own clients be removed during
15 the trial from the defense team.

16 If they invite you to sit down, fine. But then
17 surely they are going to be able to comment about it.

18 MR. STIDHAM: Your Honor, would you note our
19 objections to that -- the prosecutor making any
20 mention of that whatsoever.

21 THE COURT: I just said I'm only going to allow
22 that if they are up there conferring with you or
23 sitting at counsel table or at close proximity to it
24 conferring with you. If they are not, it is not a
25 matter to be even mentioned.

1 MR. STIDHAM: If I get up during Mr. Davis' or
2 Mr. Fogleman's direct examination of a witness and
3 walk over to Mr. Price and ask him something or if he
4 walks over and says something to me, they are going to
5 be allowed in closing to say that Damien Echols'
6 lawyers assisted in Mr. Misskelley's defense?

7 THE COURT: That's not what I'm saying.

8 MR. FOGLEMAN: I don't know why they need to be
9 sitting inside the rail.

10 MR. STIDHAM: Judge, they are co-defendants'
11 attorneys. They've got just as much right to --

12 MR. FOGLEMAN: Then they ought to be introduced
13 as such.

14 THE COURT: If they are going to be sitting where
15 it's obvious to everyone in the courtroom that you are
16 conferring and acting in concert, then I'm going to
17 let them comment on it if they want to. I just said
18 they are welcome in the courtroom. They are welcome
19 in the chambers. They're here. I'm not going to
20 exclude them. But out in the courtroom -- if you want
21 to consult with anybody, that's fair. If they are
22 going to be sitting in close proximity to you where it
23 is apparent that they're aiding and assisting, then
24 the State is going to be permitted to point that out.

25 And I just suggested that they are welcome here,

1 but they probably ought to move on down the bench a
2 little bit. I don't care if you talk to them. That's
3 up to you. I don't care if they talk to you. I'm
4 surely not preventing that. I want that very clear.
5 But if they sit at counsel table and confer with you,
6 they are going to be able to point that out.

7 MR. STIDHAM: I don't anticipate that happening.

8 THE COURT: The jury would be entitled to know
9 who those two distinguished looking young attorneys
10 are that are up there. They may confuse them with an
11 expert or something.

12 MR. DAVIS: We would also like to identify Mr.
13 Price and Mr. Davidson along with whoever those two
14 distinguished looking attorneys are.

15 MR. FOGLEMAN: Your Honor, this is the statement
16 of Doug Cooper who says that, "On December the 19th
17 Doug Cooper received a hunting knife from Mark Byers
18 at Mr. Byers' home during the late afternoon or early
19 evening. Knife had a dark synthetic handle which the
20 blade folded into. The total length of the knife was
21 about nine inches. Mr. Cooper presented the knife to
22 Joseph Burlinger and Bruce Sinofsky who in turn
23 reported it to HBO. Upon being informed HBO demanded
24 that the knife be returned to the West Memphis police.
25 Mr. Cooper transferred the knife to Burlinger and

1 Sinofsky who then sent the knife via Federal Express
2 to Detective Gitchell of West Memphis."

3 Gary's notes say that, "Cooper said that he
4 received the knife on December 19th, late afternoon
5 from Mark Byers while at his residence. It was a
6 folding type hunting knife, serrated edge blade, blade
7 about three and a half to four and a half inches
8 folding into handle. Handle was a composite type,
9 black in color. Said by Byers, 'If I liked or
10 appreciated knives.' Was fishing all day, had been
11 asleep on the couch. He left. Came back with the
12 knife. Took the knife out. 'I want to give you
13 something. I want to keep it in your car.'"

14 "Told him I didn't want the gift. Couldn't
15 understand why he gave it to him. Said it was sharp.
16 Said, 'It is between us. We have something between
17 us. I want you to think of me if you should ever use
18 it.' Safety, protection. Stayed maybe a half hour,
19 forty-five minutes, then left. Took knife back to New
20 York with me. Could tell the knife had been" -- looks
21 like "used for a while." Maybe he meant could not --
22 or "could tell the knife had not," but there's not any
23 "not" there.

24 "Looked like a serrated blade, cut leg off a deer
25 in November. I have suspicions and my colleagues

1 brought it to the attention of HBO. My possession was
2 made known to them. They advised the knife to be
3 turned over to the police. I gave verbal permission
4 for the person -- Bruce and Joe together mailed the
5 knife by Federal Express, shown as Gitchell sending
6 and Gitchell receiving in order to protect identity.
7 They videotaped possession of the knife and possession
8 of the Fed Ex slip."

9 MR. STIDHAM: When do we expect a lab report from
10 North Carolina?

11 MR. FOGLEMAN: Well, we talked to them this
12 morning. Gary said that within 30 or 40 minutes of
13 about ten minutes ago that we ought to be getting
14 something from them faxed here and it is going to be
15 handwritten. It's not going to be a formal official
16 report, but that's what they said. And last check Mr.
17 Byers had not arrived yet.

18 MR. STIDHAM: Your Honor, I have made a formal
19 request that the interrogation or questioning of Mr.
20 Byers be recorded from the beginning until the end.

21 THE COURT: I instructed Gitchell to record it as
22 well. He plans to record his entire conversation and
23 plans to advise him of his rights.

24 MR. STIDHAM: Thank you, your Honor.

25 THE COURT: And you will be given a copy of the

1 interview.

2 MR. STIDHAM: Your Honor, I have a couple of
3 motions in limine that I would like to present.

4 (BRIEF RECESS)

5 THE COURT: Let's go back on the record.

6 MR. STIDHAM: Back on July 26th, 1993, we filed a
7 motion in limine for disclosure, and that was a very
8 broad motion, and we have filed subsequent motions
9 asking to exclude any reference to prior bad acts or
10 juvenile offenses of the defendant. Obviously there
11 may be some relevancy and the issue may be discussed
12 at mitigation if that becomes necessary.

13 THE COURT: I thought I had already ruled on
14 that.

15 MR. FOGLEMAN: You said that we -- when we were
16 introducing them at the hearing, you said that you
17 would take that up at the appropriate time as to
18 whether they would be admissible.

19 It's our position as far as the advice of rights
20 that the fact that he had been advised of his rights
21 four or five times would be relevant if they put on
22 the defense that they've indicated they would -- a
23 false confession and he really didn't know what he was
24 doing and that kind of thing.

25 THE COURT: I'd probably allow the advice of

1 rights going to the issue of whether or not he knew
2 and understood those rights and them having been given
3 to him on three or four different occasions. However,
4 any substantive juvenile offense that he was charged
5 with -- I'm going to suppress that. That is not to be
6 mentioned.

7 However, it might be relevant and admissible
8 provided we got to the punishment phase of the trial.
9 I'm not ruling on that at this point. I can see where
10 that's possibly admissible during the punishment phase
11 but during the guilt/innocence phase of the trial, no
12 reference to any juvenile crime will be allowed.

13 MR. STIDHAM: Your Honor, we have also filed a
14 motion in limine asking to exclude photographs of the
15 victims and autopsy photographs.

16 I know that the Supreme Court has determined that
17 those are relevant in showing wounds and things of
18 that nature, but I would like to point out one thing
19 that makes this case a little bit different from all
20 the others that I've researched. That is, our defense
21 is, your Honor, that we were not there and even if you
22 look at Mr. Misskelley's statement nowhere in the
23 statement does he indicate that he did anything to the
24 victims or hurt them or cut them or anything of that
25 nature and, therefore, we would submit that the

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1 prejudice of showing these very horrific pictures is
2 going to be very great and their probative value
3 actually as to what was Mr. Misskelley's participation
4 in this, if you choose to believe his statement,
5 certainly the prejudice outweighs the probative value,
6 and we would ask that no photographs of the bodies be
7 admitted into evidence in that the Medical Examiner
8 can describe those wounds to the jury and that would
9 be sufficient.

10 THE COURT: I'm going to deny that motion. The
11 Medical Examiner can use his photographs, use
12 photographs taken at the scene, so long as those
13 photographs are used to depict the type of injuries
14 sustained, the location of the wounds, the possible
15 weapon used. There are a multitude of reasons why
16 those photographs may be admissible. I will, however,
17 consider the introduction of the photographs on an
18 individual basis as tendered, and you can proffer your
19 objection at that time.

20 Basically, I'm going to allow the photographs.
21 I'm not going to allow repetitious and cumulative gory
22 or gruesome photographs. I will allow a sufficient
23 number for the State to prove cause of death, method
24 and motive and manner of death if necessary.

25 And I'm not going to rule on the pictures until I

1 see them and they're submitted to me. So what you
2 will do is tender it to the defense and then to the
3 Court, and then I'll rule it is either admissible or
4 not admissible.

5 And my initial ruling is whatever is necessary
6 for them to show the extent of the injuries I'm going
7 to allow but not cumulative and duplicative type
8 photographs.

9 MR. STIDHAM: If the State has no objection,
10 could we have a few minutes to look at those and get
11 those ruled on before we get in there?

12 THE COURT: I think y'all need to look at them
13 and see what you can agree on and the ones you can't,
14 set aside, and then I will rule on them.

15 MR. STIDHAM: The Court won't permit repetition.

16 THE COURT: No.

17 MR. DAVIS: We don't anticipate those coming in
18 until at least sometime tomorrow.

19 MR. FOGLEMAN: There are some crime scene
20 photographs.

21 MR. STIDHAM: Depicting the bodies?

22 MR. FOGLEMAN: Sure. It is part of the crime
23 scene. You have seen them all.

24 THE COURT: Give them an opportunity to see them
25 when you tender them, and I'll rule on them. I'm not

1 going to rule in limine on photographs. I will, if
2 they become repetitious or overly -- repetitious
3 photographs are not going to be allowed.

4 MR. STIDHAM: Your Honor, two other motions, one
5 of which is a motion challenging the constitutionality
6 of Arkansas Code Annotated 16-8911 (d). That deals
7 with the corroboration necessary to convict someone
8 based on a confession.

9 And our challenge to that statute is based on the
10 fact that the defendant is entitled to a fair and
11 impartial trial under the terms of both the Arkansas
12 and United States Constitutions and the provisions of
13 Arkansas law requiring corroboration of a confession
14 in a criminal case are unconstitutional in that they
15 are violative of the fair trial and due process
16 clauses of the United States Constitution in that they
17 only require proof that the offense charged was
18 actually committed by someone in order to corroborate
19 a confession.

20 Further, the current law does not account for the
21 possibility of a false confession by a criminal
22 defendant. And we would further submit that not
23 requiring the State to corroborate a confession by
24 producing some evidence independent of the confession
25 that the defendant himself actually committed the

1 crime, violates the due process rights of the
2 defendant.

3 We would also submit, your Honor, that the
4 current provisions of Arkansas law regarding
5 corroboration of a confession is violative of Arkansas
6 Code Annotated five dash one dash one eleven A one
7 which provides that the State is required to prove
8 each element of the charges against the defendant
9 beyond a reasonable doubt.

10 And that not requiring the State to corroborate a
11 confession by producing evidence independent of a
12 confession that the defendant himself actually
13 committed the crime, unfairly shifts the burden of
14 proof to the defendant who is not legally required to
15 prove his innocence.

16 Also, we would submit that the legislature in
17 promulgating sixteen dash eighty-nine dash one eleven
18 D they promulgated and pronounced an arbitrary and
19 unreasonable classification of the defendants, and
20 that is a denial of the equal protection rights of the
21 defendant which are guaranteed him under the
22 Fourteenth Amendment of the United States
23 Constitution.

24 Basically, our argument there is, your Honor,
25 that a co-defendant can't be convicted solely upon the

1 statement of another co-defendant. For example, if
2 Mr. Misskelley was to testify against one of the other
3 two co-defendants, the State would be required to
4 prove -- provide some evidence corroborating that and
5 linking that particular co-defendant to the crime, and
6 that is not required to corroborate a confession of
7 the defendant himself and, therefore, the State is
8 treating these two co-defendants differently, and we
9 submit that that is a violation of equal protection.

10 THE COURT: Denied. You might raise those on a
11 motion for directed verdict. I might consider them at
12 that time. I'm going to deny your constitutional
13 challenge of the statute. There are a multitude of
14 cases following that annotation. In fact there are
15 several pages of cases that our Court has ruled on
16 those issues, and it is extremely well-established law
17 and, therefore, it is denied.

18 MR. STIDHAM: Your Honor, thank you for your
19 consideration. That leaves us with one motion that
20 hasn't been ruled upon yet and that is a motion
21 regarding comment on the evidence and while I feel a
22 little bit reluctant to raise this motion, I felt that
23 it was important.

24 MR. DAVIS: Is this the "Lohnes Tiner motion?"

25 MR. STIDHAM: I've heard it referred to as that.

1 Basically, I don't know if you've had an opportunity
2 to review that or not, but your Honor has a long
3 distinguished career as prosecuting attorney and judge
4 and in previous trials and also in this trial I notice
5 that your Honor likes to participate in the
6 interrogation of witnesses, and there was at one point
7 when I had an expert on the stand at a previous
8 hearing that your Honor made a comment about "street
9 smarts" and "street wise" and there wasn't a jury in
10 the box and I didn't make an objection at that point
11 --

12 THE COURT: I think my comment to the
13 psychologist was, "Did he have street smarts? Was he
14 able to --" or something to that effect. But that
15 certainly wasn't a comment on the evidence and Lohnes
16 Tiner notwithstanding, if the Court feels the need to
17 ask a question for clarity purposes and to inform the
18 jury, that is my duty and responsibility, and I am
19 going to ask any question that I think is pertinent.
20 Whether it's the State's witness or defense witness.
21 If it is necessary to clarify an issue for the jury or
22 the Court, then I'm going to ask what I feel is
23 appropriate.

24 MR. STIDHAM: Your Honor, I'm not suggesting that
25 you don't have the right to do that under Arkansas law

1 but the point I want to make is --

2 THE COURT: I'm not going to try the case for
3 anyone if that is the point you're trying to make.

4 MR. STIDHAM: The point that I'm trying to make
5 and doing so without angering the Court --

6 THE COURT: I'm not getting angry at anyone.

7 MR. STIDHAM: Your Honor, the point that we are
8 trying to make in our motion is not that the Court
9 doesn't have the power to ask questions. The point we
10 are trying to establish is that the jury is going to
11 look to your Honor as a leader and if you ask a
12 particular question that perhaps the prosecutor may
13 have forgot to ask and any response or comment that
14 you might make could have an effect upon the jury, and
15 we ask that your Honor be careful in choosing comments
16 and questions.

17 THE COURT: I'm not going to comment on the
18 evidence. I might ask a question that you forgot to
19 ask as well or should have asked.

20 MR. STIDHAM: I also have an order ruling on our
21 motion in limine to exclude the prosecutor from
22 mentioning the finding of voluntariness of the
23 confession --

24 THE COURT: No, you're not going to do that. I'm
25 not going to allow them to do that in opening

1 statement that the judge has found his statement was
2 voluntary. I'll grant a motion in limine to that
3 effect. I'm not going to allow you to say it either
4 or comment on it.

5 MR. STIDHAM: I have no desire to do that.

6 THE COURT: In fact I don't want either one of
7 you commenting on any order that the Court enters. I
8 don't think that's appropriate. If I entered an
9 order, it's the law of the case.

10 (RETURN TO OPEN COURT)

11 MR. STIDHAM: We are going to be asking that
12 there be an exception made for the rule.

13 THE COURT: You mean as to expert witnesses?

14 MR. STIDHAM: That's correct.

15 MR. DAVIS: As to the particular expert they're
16 talking about, it is our opinion that he could be
17 excluded from the rule for any expert we might offer
18 to testify but as far as anything to be gained from
19 hearing the other testimony or anything that would
20 bear on his opinion, it would be inappropriate for him
21 to hear other testimony just as it would other
22 witnesses.

23 MR. STIDHAM: Your Honor, that's not the law.
24 It is clear that experts are allowed to remain in the
25 courtroom and hear the testimony. They can base their

1 testimony on what they hear in the courtroom, and we
2 would ask that the exception be made for our expert.

3 THE COURT: There are witnesses that can
4 assimilate what they hear by way of testimony and use
5 that information to form an opinion, that is true.
6 But what witnesses are you talking about that need to
7 do that?

8 MR. STIDHAM: Our psychologist, your Honor.

9 THE COURT: Approach the bench.

10 (THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH
11 OUT OF THE HEARING OF THE JURY)

12 MR. STIDHAM: Your Honor, it's clear that the
13 rules allow for this exception.

14 THE COURT: That is not the problem. What is
15 it he needs to specifically hear in the courtroom?

16 MR. STIDHAM: Everything.

17 THE COURT: To form an opinion as to what?

18 MR. STIDHAM: He's going to testify as to Mr.
19 Misskelley's mental capability, and he is going to
20 testify as to what his mental capability was during
21 the interrogation, and we feel that's very important
22 that he hear the testimony. I don't know when this is
23 going to come in.

24 MR. FOGLEMAN: What has that got to do with
25 mental capability?

1 MR. STIDHAM: What prejudice will the State have
2 by allowing him to listen to the testimony?

3 MR. DAVIS: Judge, it is very important that
4 Doctor Wilkins be confined to areas that his expertise
5 actually applies to. They are attempting to range far
6 beyond his area of his expertise --

7 MR. STIDHAM: -- Judge, they can bring that up at
8 the proper time.

9 MR. DAVIS: Are you going to let me finish?

10 MR. STIDHAM: Sure.

11 MR. DAVIS: If they are allowed to have him
12 listen to all the testimony, then he is going to get
13 into areas that we feel like clearly go beyond his
14 expertise and what we anticipate they're going to do
15 is talk about based on what he's seen or observed how
16 the officers influenced him and that is clearly not
17 something he can give an opinion on.

18 MR. STIDHAM: Judge, he can give his opinion on
19 that. They can challenge that at the appropriate time
20 when he testifies but now is not the appropriate time
21 to do that.

22 MR. FOGLEMAN: Mr. Stidham has indicated to the
23 Court that the only thing he will be giving opinions
24 on is the defendant's mental capacity, either now or
25 at the time the questioning occurred, and I don't see

1 A Dana Moore, 1398 East Barton.

2 Q What city?

3 A West Memphis, Arkansas.

4 Q Who do you live there with?

5 A With my husband and my daughter.

6 Q Your husband's name?

7 A Todd Moore.

8 Q And your daughter's?

9 A Dawn Moore.

10 Q How old is Dawn?

11 A Ten.

12 Q What was your relationship to Michael Moore?

13 A I'm his mother.

14 Q At the time of Michael's death, how old was he?

15 A Eight.

16 Q Did he go to school?

17 A Yes, sir.

18 Q Where did he go to school?

19 A Weaver Elementary in West Memphis.

20 Q What grade was he in?

21 A Second grade.

22 Q Whose room was he in?

23 A Miss Miller's.

24 Q I want to direct your attention to May 5th, 1993. At the
25 time that Michael got out of school, were you home at that time?

1 A I arrived at about ten minutes after.

2 Q After you got home after he had gotten out of school, did
3 you see Michael?

4 A Yes, sir.

5 Q When was the first time you saw him after he got out of
6 school?

7 A Right after I got home.

8 Q Where was he?

9 A He was down on 14th street riding his bike.

10 Q Was anybody with him?

11 A Steve Branch.

12 Q Anybody else at that time?

13 A No, sir.

14 Q Did you later see him with somebody? First of all, what
15 were they doing?

16 A They were riding around on their bikes.

17 Q I want to show you what is marked for identification as
18 State's Exhibit Six and ask if you can identify this?

19 A Yes, sir, it is Michael's bike.

20 Q Is this the bike that he was riding that day?

21 A Yes, sir.

22 MR. FOGLEMAN: Your Honor, we would offer State's
23 Exhibit Six.

24 MR. STIDHAM: No objection.

25 THE COURT: It may be received without objection.

1 (STATE'S EXHIBIT SIX IS RECEIVED IN EVIDENCE)

2 BY MR. FOGLEMAN:

3 Q Later did you see him with somebody else besides Steve
4 Branch?

5 A Yes, sir. Chris Byers.

6 Q Where did you see them at that time?

7 A Going north on 14th Street.

8 Q Were they walking or --

9 A They were riding their bikes.

10 Q How many bikes were there?

11 A There was two bikes.

12 Q Who was on what bike?

13 A Michael was on his. Chris was on Steve's, and Steve was on
14 his.

15 Q So Chris and Steve were on the same bicycle?

16 A Yes, sir.

17 Q How far down were they from where you were?

18 A Approximately six houses.

19 Q What time of the day was it?

20 A Six o'clock.

21 Q Did you see him any after that?

22 A No, sir.

23 Q When you saw him going that way, did you tell your daughter
24 to do anything?

25 A I asked her to go get him and tell him to come home.

1 Q For what reason?

2 A To eat supper.

3 Q Is there a particular time that Michael was supposed to be
4 home?

5 A Yes, sir. Before the street light comes on.

6 Q Now I want you to look at what I have got marked for
7 identification as State's Exhibit Two.

8 MR. FOGLEMAN: Mr. Stidham, you've seen this. Do
9 you have any objection to this?

10 MR. STIDHAM: I have no objection.

11 MR. FOGLEMAN: Your Honor, by agreement may it be
12 admitted?

13 THE COURT: It may be received without objection.

14 (STATE'S EXHIBIT TWO IS RECEIVED IN EVIDENCE)

15 BY MR. FOGLEMAN:

16 Q Do you recognize what that depicts?

17 A Yes, sir.

18 Q What does that depict?

19 A It is the aerial photograph of West Memphis.

20 Q You said photograph?

21 A Well, map of West Memphis.

22 Q If you could, could you take this highlighter and show the
23 jury where you lived or do live?

24 A (MARKING) Right there.

25 Q What you highlighted -- is that the address?

1 A Yes, sir, it is.

2 Q Does it point to the house?

3 A Yes, sir.

4 Q What is your address?

5 A 1398 East Barton.

6 Q Which side of the street, which corner is that? You told
7 me you had a problem with directions.

8 A It is the right side.

9 Q Is that the -- as you are facing it?

10 A It is the left side if I'm facing it.

11 Q Is that when you are facing north?

12 A Ah, yes, sir.

13 Q It would be the northwest corner?

14 A Yes, sir.

15 Q You mentioned that you had seen the boys riding on -- what
16 street was that?

17 A North 14th.

18 Q Could you step down and show the jury where that is in
19 relation to your house?

20 A (INDICATING) It is down this street.

21 Q So you live on the corner of 14th and Barton?

22 A Yes, sir.

23 Q I want to show you what I have marked for identification as
24 State's Exhibit Five and ask if you can identify that?

25 A That's Michael.

1 MR. FOGLEMAN: We would offer State's Exhibit
2 Five.

3 MR. STIDHAM: No objection.

4 THE COURT: It may be received without objection.

5 (STATE'S EXHIBIT FIVE IS RECEIVED IN EVIDENCE)

6 BY MR. FOGLEMAN:

7 Q On the day that Michael disappeared, what was he wearing?

8 A A Boy Scout shirt, a pair of blue pants, his scout hat, a
9 little badge that had his name on it.

10 Q When you say, "a little badge?"

11 A A police badge.

12 Q Like a star?

13 A Yes, sir.

14 Q After you sent your daughter to get him for supper, how
15 long after that was it when you started looking for him?

16 A Right after I went around the neighborhood and I thought he
17 just -- you know, I missed him.

18 Q What did you do then?

19 A I went back home and waited for him to see if he would come
20 back.

21 Q What happened?

22 A He didn't come back.

23 Q Did you later have some contact with a police officer?

24 A Yes, sir.

25 Q When was that the first time?

1 A About eight, eight-ten.

2 Q Where did you have contact with that officer?

3 Q At Mark Byers' house.

4 Q Was the officer there?

5 A Yes, sir.

6 Q And you went over there?

7 A Yes, sir.

8 Q Did you report to the officer that Michael was missing?

9 A Yes, sir.

10 Q Did you subsequently do an official report?

11 A Yes, sir.

12 Q Was that later?

13 A Yes, sir.

14 Q Why was it later?

15 A The officer told me that she knew what Michael looked like
16 and she knew -- I had stated that they all three were together
17 so she knew that they were together and she would probably come
18 back and give me a police report if they haven't found them yet.

19 Q After you reported it to this officer, what did you do?

20 A I went riding around the neighborhood looking.

21 Q Were other people looking, too?

22 A Yes, sir.

23

CROSS EXAMINATION

24 BY MR. STIDHAM:

25 Q What time did your son get home from school?

1 A Three.

2 Q In the afternoon?

3 A Yes, sir.

4 Q Did he skip school that day?

5 A No, sir.

6 Q He went the entire day?

7 A Yes, sir.

8

(WITNESS EXCUSED)

9

PAM HOBBS

10 having been first duly sworn to speak the truth, the whole truth
11 and nothing but the truth, then testified as follows:

12

DIRECT EXAMINATION

13 BY MR. FOGLEMAN:

14 Q Will you please state your name and where you currently
15 live?

16 A Pam Hobbs. I'm staying in Blytheville, Arkansas.

17 Q Who are you living there with?

18 A I'm staying with my parents for now.

19 Q Back in May of 1993, where were you living?

20 A In West Memphis, 1601 South McCauley.

21 Q What is your relationship to Steve Branch?

22 A I'm his mother.

23 Q How old is Steve?

24 A He was eight.

25 Q What grade was he?

1 A Second.

2 Q Where did he go to school?

3 A Weaver Elementary.

4 Q Do you remember who his teacher was?

5 A Miss Jones.

6 Q On May 5th, 1993, do you know where you were that day?

7 A Where I was?

8 Q Uh-huh.

9 A At home before I had to get ready to go to work.

10 Q What time did you go to work?

11 A I left for work at 4:50.

12 Q And then you worked up into the night?

13 A Until 9:25.

14 Q Were you at work when you discovered that Steve was
15 missing?

16 A Uh-huh.

17 Q I want you to if you can to take this marker and highlight
18 on this State's Exhibit Two the location of where you lived at
19 that time.

20 A (MARKING)

21 Q You have highlighted an address with an arrow to the
22 location?

23 A Um-hum.

24 Q Did Steve have a bicycle?

25 A Yes, he did.

1 Q I want to direct your attention to what I have marked for
2 identification as State's Exhibit Four. Do you recognize that?

3 A Yeah.

4 Q Whose bike was that?

5 A Stevie's.

6 Q How long had he had that?

7 A About two weeks.

8 MR. FOGLEMAN: Offer State's Exhibit Four.

9 THE COURT: Any objection?

10 MR. STIDHAM: No objection.

11 THE COURT: It may be received without objection.

12 (STATE'S EXHIBIT FOUR IS RECEIVED IN EVIDENCE)

13 BY MR. FOGLEMAN:

14 Q I want to show you what I have marked for identification as
15 State's Exhibit Three and ask if you can identify that?

16 A That's my son, Stevie.

17 Q Was that a fairly recent photograph?

18 A His second grade picture.

19 MR. FOGLEMAN: Offer State's Exhibit Three.

20 MR. STIDHAM: No objection, your Honor.

21 THE COURT: It may be received without objection.

22 (STATE'S EXHIBIT THREE IS RECEIVED IN EVIDENCE)

23 BY MR. FOGLEMAN:

24 Q When was it that you first found that Stevie was missing?

25 A At 9:25.

1 Q How did you discover that?

2 A My husband come to pick me up from work and went and called
3 the police.

4 Q Did you make a report to the officer?

5 A Um-hum.

6 CROSS EXAMINATION

7 BY MR. STIDHAM:

8 Q What time did your son get home from school that day on May
9 the 5th?

10 A What time did he go to school?

11 Q What time did he get home?

12 A We got home around 2:55.

13 Q Did you pick him up?

14 A Yeah.

15 Q Did he skip school that day?

16 A No.

17 Q He was at school the entire day?

18 A Um-hum.

19 Q Ma'am, there was a time when you were upset with the West
20 Memphis Police Department. Isn't that correct?

21 A Sir?

22 Q There was a time when you were upset with the police
23 department?

24 A Yes, I was.

25 Q You also made a statement that you would be mad at them

1 until the day you die because you were out there doing their
2 job. Did you tell the Commercial Appeal those words?

3 A I did make that statement at one time.

4 Q Why did you feel that way?

5 A I felt like they didn't start searching when they should
6 have.

7 Q You felt like they had a slow response?

8 A No, they showed response, but I wished they would have
9 started earlier than what they did.

10 REDIRECT EXAMINATION

11 BY MR. FOGLEMAN:

12 Q Were you in the courtroom when the opening statements were
13 given?

14 A Yes, sir.

15 Q Were you aware prior to today and -- although I didn't go
16 into a lot of specifics about the injuries -- were you aware of
17 what specific injuries the boys had had?

18 A No.

19 Q Nobody's told you?

20 A Uh-uh.

21 Q Had you heard any information that was accurate as to what
22 the boys had?

23 A As to what now?

24 Q Did you hear any rumors or anything that were accurate as
25 to the injuries that the boys had?

1 A Uh-uh.

2 Q So before today you didn't know what the injuries were?

3 A No, other than at the time of the funeral I knew that his
4 face was messed up pretty bad.

5 Q That was because you could see his face?

6 A Yeah. On his face was the only thing I could tell.

7 (WITNESS EXCUSED)

8 MELISSA BYERS

9 having been first duly sworn to speak the truth, the whole truth
10 and nothing but the truth, then testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FOGLEMAN:

13 Q Will you please state your name and where you live?

14 A Melissa Byers, 1400 East Barton, West Memphis, Arkansas.

15 Q Who do you live there with?

16 A My husband, John Mark Byers; my son, Shawn Ryan Clark; and
17 I used to live with my son, Chris Byers.

18 Q How old was Chris?

19 A He was eight years old when he was -- when he passed away.

20 Q What grade was he in?

21 A He was in the second grade.

22 Q Did he also go to Weaver?

23 A Yes, sir.

24 Q Do you know who his teacher was?

25 A Miss Jones.

1 Q I want to direct your attention to May 5th, 1993. After
2 school got out, first of all to save Mr. Stidham some time, did
3 Chris go to school that day?

4 A Yes, sir.

5 Q He didn't skip school?

6 A No, sir.

7 Q After school, when was the last time you saw Chris?

8 A On our carport.

9 Q About what time was that?

10 A Around five-thirty, quarter to six.

11 Q Did you later discover that he wasn't under the carport?

12 A Yes, sir.

13 Q How did you come to discover that?

14 A I went outside hollering for him and he was gone out of the
15 yard.

16 Q . What happened after you discovered that he wasn't under the
17 carport?

18 A I felt like he had just gone next door to play. My husband
19 got home. He had gone to pick Ryan up and when he got home, I
20 said -- we were going to go out to eat at Shoney's and I told
21 Mark, "Let's get in the car and ride around in the neighborhood.
22 We will pick him up and let's go eat."

23 Q Did you find him?

24 A No, sir.

25 Q After y'all drove around the neighborhood, did you also

1 look other places?

2 A We drove around the neighborhood and drove around the
3 neighborhood and drove around the neighborhood, and then we saw
4 a police officer that was parked up there where the old Family
5 Dollar Store is that's closed down, and he was parked by that
6 phone there and we pulled up there, and we told him we couldn't
7 find our eight-year-old and we were looking for him for a couple
8 of hours. "How do you go about getting the police involved to
9 help us look," and he told us to go home and call the police
10 department and file a missing child report, which is what we
11 did.

12 Q You went directly from there back home?

13 A Yes, sir.

14 Q Did an officer come out and take a report?

15 A Yes.

16 Q What time was that, approximately?

17 A Right around eight o'clock. It was getting dark.

18 Q After the report was made, what did y'all do?

19 A During the time the report was made Dana Moore came over
20 and she said --

21 Q She lives across the street?

22 A She lives across the street from me. She said, "They are
23 together. I saw them together earlier," and she said, "They are
24 all three together wherever they are at."

25 Q And after she came over, what happened?

1 A She told the -- we got pictures of the kids for the police
2 officer, and then we just continued to start looking, to look.

3 Q Where all did y'all look?

4 A Everywhere.

5 Q About how many of you were looking?

6 A Britt Smith, my son, another friend of Britt's, Patsy --
7 Britt's mother, Terry Hobbs, Pam Hobbs, my husband, myself, Dana
8 Moore.

9 Q Was the officer who had --

10 A And the officer -- well, she looked some, but she didn't go
11 -- and then Dana came and said that someone told her they had
12 seen them at the edge of Robin Hood. And that's when my husband
13 and Britt and Ryan went down in the woods and started looking
14 down there and Terry, too.

15 Q If you would -- I don't believe you have seen this before
16 -- but this is State's Exhibit Two. It's an area map of West
17 Memphis. Would you take this yellow marker and see if you can
18 locate where you live on there?

19 And if it will help you out, (INDICATING) this is Broadway,
20 this is the interstate, here's Barton, and this area has been
21 highlighted --

22 A 1398 East -- that's Dana. I live right here. (MARKING)

23 Q I want to show you what I have marked for identification as
24 State's Exhibit One and ask if you can identify that? (HANDING)

25 A (EXAMINING) Yes, sir.

1 Q Is that Chris?

2 A He's my baby.

3 MR. FOGLEMAN: Your Honor, we would offer
4 State's Exhibit One.

5 MR. STIDHAM: No objection, your Honor.

6 THE COURT: It may be received without objection.

7 (STATE'S EXHIBIT ONE IS RECEIVED IN EVIDENCE)

8 BY MR. FOGLEMAN:

9 Q Were you in the courtroom when I gave my opening statement?

10 A Yes, sir, I was.

11 Q Prior to today, were you aware of the specific injuries
12 that all the boys had?

13 A I don't -- I don't understand the question.

14 Q Did you know -- had we told you what the injuries were?

15 A No, sir.

16 Q Had anybody else told you?

17 A No, sir.

18 CROSS EXAMINATION

19 BY MR. STIDHAM:

20 Q Ma'am, you say that your son didn't skip school that day?

21 A No, sir, he did not.

22 Q He was there the entire day?

23 A Yes, sir.

24 Q Who picked him up from school?

25 A The school is -- where Miss Moore lives -- where Miss Moore

1 lives is like one house over. Chris walked home from school.
2 He walked one block through the crossing guard and he was home.

3 Q To your knowledge, no one picked him up that day?

4 A That day I was at work. One of our vehicles was broken
5 down. His daddy couldn't find him after school. He didn't come
6 straight home from school. So Ryan was at home. Mark said,
7 "Stay here wait for brother." No, he had to take -- excuse me.

8 Q It's okay. Take your time.

9 A I beg your pardon. He had to take Ryan to court. Ryan had
10 to go to court that day. So he had to run around court. He
11 still couldn't find Chris so he knew I was stranded in Memphis
12 on Hollywood Street, which is not a great area of town, so he
13 ran to pick me up from work and then run home to try to find
14 Chris.

15 Q Did you ask him when --

16 A When he went to go get Ryan to go back up to court to be
17 with Ryan, he left me at home in case Chris came home and that
18 is when he found Chris.

19 Q You didn't send anybody to pick him up that day or ask a
20 friend or relative to pick him up?

21 A No, sir. His daddy got him from school. His daddy was
22 home every day when Chris came home from school.

23 (WITNESS EXCUSED)

24 DEBRA O'TINGER

25 having been first duly sworn to speak the truth, the whole truth

1 and nothing but the truth, then testified as follows:

2 DIRECT EXAMINATION

3 BY MR. FOGLEMAN:

4 Q Will you please state your name and address?

5 A Debra O'Tinger, 1309 Goodwin Avenue, West Memphis.

6 Q I want to direct your attention to May 5th, 1993, the day
7 that the three boys disappeared.

8 A Um-hum.

9 Q Were you at home that day?

10 A Yes, sir.

11 Q Did you see the boys?

12 A Yes, sir.

13 Q About what time was it when you first saw them?

14 A Around six, close to six.

15 Q What were they doing?

16 A They were in my yard.

17 Q Were they walking?

18 A One was walking and one was on a bike.

19 Q How many boys were there?

20 A Two at the time.

21 Q When they were doing whatever they were doing, did you see
22 them later?

23 A No, sir.

24 Q Do you know the boys? Did you know them?

25 A No, sir.

1 Q What exactly did you see the boys doing?

2 A One rode the bike through my yard, and I had just planted a
3 tree, and he had rode right by it and that was it. They were
4 just going through my yard. That was it.

5 Q How many boys did you say you saw?

6 A Two at the time. We were leaving to go to my mother's.

7 Q I may just be confused. Let me show you this and ask is
8 that yours?

9 A (EXAMINING) Yes.

10 Q Would you mind reading over that for a minute?

11 A Yes, sir. (EXAMINING)

12 Q Was that your statement?

13 A Yes, sir.

14 Q I'm a little confused. In the statement you mentioned
15 three boys.

16 A Right. One had come around the side of the street where
17 Goodwin Avenue and Goodwin Circle --

18 Q Okay, so there were --

19 A Three.

20 Q I want to show you State's Exhibit 101 --

21 MR. FOGLEMAN: Mr. Stidham, do you have any
22 objection to this?

23 MR. STIDHAM: I have no objection to that.

24 THE COURT: Are you offering 101?

25 MR. FOGLEMAN: Yes.

1 THE COURT: It may be received without objection.

2 (STATE'S EXHIBIT 101 IS RECEIVED IN EVIDENCE)

3 BY MR. FOGLEMAN:

4 Q Okay, if you would, step down. See if you can recognize
5 the area.

6 A (EXAMINING)

7 Q Do you recognize this area -- with this being North 14th?

8 A This is 14th?

9 Q Um-hum. And this is Goodwin Circle.

10 A Right. I'm right here.

11 Q Would you circle that and put your initials?

12 A Um-hum. (MARKING)

13 Q If you could -- and let me get this pointer -- if you could
14 show the jury where you saw the boys, the two together and then
15 the one.

16 A The two were right here going through -- here's a sidewalk.
17 They cut through my yard over here, and then one was right here.

18 (INDICATING)

19 Q Were you later able to identify who the boys were?

20 A Yeah, I actually knew one of them because one of them's
21 brother had asked to mow my lawn earlier in the beginning, about
22 the summertime.

23 Q Do you know which of the boys that was?

24 A Byers, the little Byers boy.

25 Q I want to show you State's Exhibit One and ask if you can

1 recognize him?

2 A Yes, sir.

3 Q Is that the Byers boy?

4 A Yes, it is.

5 Q Is this one of the boys that you saw?

6 A Yes, sir.

7 Q And about what time was this?

8 A Close to six. We were supposed to be at my mother's at six
9 for dinner.

10 Q Where were they when you last saw them?

11 A That was it. We were getting into the vehicle to leave.

12 Q Do you know what this area, the kids call this area?

13 A Robin Hood.

14 (WITNESS EXCUSED)

15 REGINA MEEK

16 having been first duly sworn to speak the truth, the whole truth
17 and nothing but the truth, then testified as follows:

18 DIRECT EXAMINATION

19 BY MR. FOGLEMAN:

20 Q Will you please state your name and occupation?

21 A Regina Meek, police patrolman, West Memphis.

22 Q How long have you been with the police department?

23 A Nine years.

24 Q I want to direct your attention to May 5, 1993. At some
25 time around eight o'clock were you dispatched to fourteen

1 hundred East Barton?

2 A Yes, sir.

3 Q What time did you arrive?

4 A Around 8:10.

5 Q Whose residence was fourteen hundred East Barton?

6 A The Byers' residence.

7 Q When you were at the residence, what did you find?

8 A I found a mother and father worried about their missing
9 son, little eight-year-old son.

10 Q Did you have contact with any other parents?

11 A Yes, sir. Mrs. Moore came and knocked on the door while I
12 was taking the report from Mr. and Mrs. Byers and told me that
13 her son was with the Byers boy and also Steve Branch was with
14 them. She had saw them earlier.

15 Q Did you take a formal report from her at that time?

16 A No, sir, I did not. I finished the Byers report and when I
17 left her I could not relocate her. She was looking for her son.
18 And I found her again around 9:24.

19 Q After taking the report, what efforts, if any, did you make
20 to try to locate these children?

21 A I had been advised by Mrs. Moore that the last time anyone
22 saw them they were going toward a wooded area, nicknamed Robin
23 Hood by the children. And it was pointed out to me it was two
24 entrances and since they had told me that a couple people went
25 into the entrance off of Goodwin, I went down to McCauley.

1 Q If you could, take this pointer and directing your
2 attention to State's Exhibit 101 point out to the jury the area
3 known as Robin Hood and the two entrances.

4 A (POINTING) This area here is Robin Hood. This is McCauley
5 Street here, and this is a pipe that runs across the bayou here.
6 And there is a trail that passes all the way through here.

7 They told me some of the people had came in from this side
8 so I came in from here and went down to the pipe. The pipe is
9 where I stopped.

10 Q When you went to that area, about what time was it?

11 A It was turning dark. I didn't look at my watch to look at
12 what time it was, but it was well on its way to dark.

13 Q Was there any particular thing about the conditions that
14 you noted?

15 A Yes, sir. When I went down the hill to the pipe, of course
16 the weeds were extremely high. The mosquitoes were tremendous.
17 I was breathing in mosquitoes it was so bad. I decided at that
18 time that three eight-year-old boys would not be staying in the
19 woods with the mosquitoes that bad, and I turned around and went
20 back to my vehicle and decided to check buildings and other
21 areas.

22 Q Did you do that?

23 A Yes, sir.

24 Q How long did you continue to search?

25 A I went back to the police department around around 11:15 or

1 11:20.

2 Q When did your shift actually end?

3 A A quarter till eleven is when the rest of the officers
4 finished their shift.

5 (WITNESS EXCUSED)

6 JOHN MOORE

7 having been first duly sworn to speak the truth, the whole truth
8 and nothing but the truth, then testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FOGLEMAN:

11 Q Will you please state your name and occupation?

12 A John Moore, patrolman, city of West Memphis.

13 Q I want to direct your attention to May 5, 1993. Were you
14 on duty that night?

15 A Yes, sir.

16 Q And at approximately 9:25 or so did you respond to Catfish
17 Island?

18 A Yes, sir.

19 Q What did you find when you got there?

20 A I met there with Miss Hobbs and her husband and I believe
21 she had a child with her. She stated that one of her -- that
22 her son, Steve Branch, was missing.

23 Q Did you start an incident report?

24 A Yes, sir, started an offense report.

25 Q After taking this report from her, did you participate in

1 any of the search?

2 A Yes, sir.

3 Q What involvement did you have in doing that?

4 A I went down the street from Catfish Island to an area, and
5 I met with Mr. Byers, and he and I searched an area off Goodwin
6 Street.

7 Q Let me give you this pointer and refer your attention to
8 State's Exhibit 101 and ask you to point out this area that
9 you're talking about.

10 A (POINTING) Catfish Island would be back over this way.
11 Here's the truck stop. Catfish Island is here, and this is
12 where I met with Miss Hobbs. I left there, went back up here
13 where I met with Mr. Byers, and it was dark, and I believe his
14 wife left to go get him a flashlight. I got my flashlight and
15 went back in this area and searched for the boys. And we
16 crossed up in here and back here and all the way back to here.

17 Q What were the conditions out there where you were
18 searching?

19 A There was some water there, and there were a few tracks but
20 none of the bike tracks looked fresh.

21 Q Were there other people searching?

22 A There was other people there, but there was no one out
23 there searching while --

24 Q I'm not talking about that particular area. I am talking
25 about -- were you aware of other people searching?

1 A I believe Mr. Byers said the other family members were out
2 searching for them also.

3 (WITNESS EXCUSED)

4 RYAN CLARK

5 having been first duly sworn to speak the truth, the whole truth
6 and nothing but the truth, then testified as follows:

7 DIRECT EXAMINATION

8 BY MR. FOGLEMAN:

9 Q Will you please state your name and address?

10 A Ryan Clark. I live at fourteen hundred East Barton.

11 Q What is your relationship to Chris Byers?

12 A He was my brother.

13 Q How old are you?

14 A Fourteen.

15 Q Do you go to school?

16 A Yes, sir, I go to West Memphis Christian.

17 Q I want to direct your attention to May 5th, the day that
18 your brother disappeared. Did you help in looking for him?

19 A Yes, sir, I did.

20 Q Where all -- what all did you do looking for him?

21 A I walked around the woods looking for him, and that's about
22 all.

23 Q When did you first start looking for him? Well, when you
24 first started looking for him, were you with anybody?

25 A Yes, I was with my friend, Britt Smith.

1 Q About what time did you get with your friend, Britt Smith?

2 A I don't know. It was dark. I didn't pay any attention.

3 Q Was there anybody else that you were with or had been with?

4 A Britt's sister was helping to look and her boyfriend,
5 Richie was looking and his cousin, Robbie. I forgot his last
6 name.

7 Q When you say you looked in the woods, I want you to look at
8 State's Exhibit 101. Look over that picture and see if you
9 recognize that area.

10 A (EXAMINING) Yes, sir, I do.

11 Q You do recognize that?

12 A Um-hum.

13 Q If you could take this pointer and point to the jury the
14 area where you were looking.

15 This is the interstate. This is the truck stop and the
16 Blue Beacon.

17 A (POINTING) We looked -- we looked -- we looked right over
18 here. The other day we walked over here.

19 Q When was that? You said "The other day?"

20 A It was the same day but in the nighttime we were looking --

21 Q Uh-huh.

22 A We were looking over there where the truck stop and Blue
23 Beacon --

24 Q You see this? How do you get across this big ditch?

25 A There is a pipe right there.

1 Q Which woods were you looking in?

2 A In the nighttime?

3 Q Um-hum.

4 A (POINTING) We were looking around here.

5 Q Did you go on the north side of the ditch?

6 A Yeah -- well, I didn't. My friend Richie did. They were
7 over here (POINTING) and they went over here to like right here
8 while we were over here.

9 Q You yourself didn't go on the north side of the pipe
10 looking?

11 A Um-um.

12 Q What is all this area called?

13 A Robin Hood.

14 Q What are these lines and things on here?

15 A Motorcycle trails.

16 Q When -- after your brother wasn't at home -- were you at
17 home when he left or do you know?

18 A I was at court.

19 Q After you got back from -- why were you at court?

20 A I was riding my three wheeler on this street and the woman
21 was in the car and she came flying past me because we thought we
22 made her mad or something and she came flying by us and the cop
23 saw her and he gave her a ticket for reckless driving.

24 Q You were there to testify?

25 A Yes, sir.

1 Q After you got home from court, was your brother at home?

2 A Um-um.

3 Q After you found he wasn't at home, did you do anything to
4 look for him there around that area?

5 A Yes, sir, I did. I looked around on Wilson Street because
6 my dad said that he went to his friend Steve Branch's.

7 Q Did you look on North 14th?

8 A Yeah, I went down the street.

9 Q Did you find anything down the street?

10 A Not really.

11 Q Did you find a skateboard?

12 A Yeah, I found a skateboard, but I ain't never seen it
13 before.

14 Q You hadn't ever seen it?

15 A No.

16 Q While you and Britt were searching in the woods, did you
17 hear anything?

18 A Yes, we heard some splashing. We heard -- it was me and
19 Britt. We were walking by the -- it wasn't nowhere near where
20 they found them, but it was down -- there is a bridge. We were
21 right about there, and we heard some splashing so I started
22 yelling and stuff at them, and I told my friend Britt, "When I
23 count to three, run." And after that we took off running.

24 CROSS EXAMINATION

25 BY MR. STIDHAM:

1 Q Do you remember telling the police that you heard somebody
2 rustling around in the weeds about the same time you heard the
3 splashes?

4 A Yes, I did.

5 Q Do you remember what time that was?

6 A No, I don't.

7 Q Do you remember what time you told the police it was?

8 A I don't know.

9 Q Was it about nine o'clock? Was it after dark?

10 A It was dark.

11 Q Do you remember what time it got dark that day?

12 A I don't know. It was kind of late because it was in the
13 summertime.

14 Q Did you see anybody running from the area or the scene?

15 A I didn't see nothing but I heard something.

16 Q But you couldn't tell who it was or what it was just by the
17 sound?

18 A It sounded like somebody was running across it. Sounded
19 like somebody was running from us or something or running at us.

20 REDIRECT EXAMINATION

21 BY MR. FOGLEMAN:

22 Q Would you show on the map where you were when you heard the
23 rustling in the weeds?

24 A (POINTING) It was about right here.

25 Q That is on the south side of the big ditch?

1 A The splashing was over here. (INDICATING)

2 (WITNESS EXCUSED)

3 THE COURT: Ladies and gentlemen, it's time for
4 our noon recess so with the usual admonition of the
5 Court not to discuss the case among yourselves or with
6 anyone, you may stand in recess until 1:15.

7 (RECESS)

8 MICHAEL ALLEN

9 having been first duly sworn to speak the truth, the whole truth
10 and nothing but the truth, then testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FOGLEMAN:

13 Q Will you please state your name and occupation?

14 A Michael Allen, Detective Sergeant with the West Memphis
15 Police Department.

16 Q How long have you been with the West Memphis Police
17 Department?

18 A Since May of '88.

19 Q How long have you been in law enforcement?

20 A Total since 1981.

21 Q Detective Allen, I want to direct your attention to May
22 6th, 1993. What part, if any, did you play in the search for
23 Michael Moore, Steve Branch and Chris Byers?

24 A The morning of the 6th we had a meeting at the detective
25 division and as soon as we sat down for our morning meeting, we

1 were informed of the missing youths. We at that time were
2 given photographs and some general information on them and we
3 went out looking. I in particular was assigned to check
4 vacant houses and that was my duties for that day.

5 Q Were various detectives given various duties?

6 A Different areas of search, yes, sir.

7 Q If you could, do you recognize State's Exhibit Two?

8 A Yes, sir.

9 Q If you could, take this pointer and if you could show the
10 jury the areas where you searched that day?

11 A The areas I searched was what we call our northeast section
12 of West Memphis.

13 Q If you could step back a little so the jurors down here
14 can see.

15 A Okay. This area is the northeast section of West Memphis.
16 The three boys that were reported missing lived in this general
17 area and so I searched vacant houses in the general northeast
18 section area of West Memphis that day.

19 Q What is that area bounded by, what major streets?

20 A We make up from Broadway north --

21 Q Where is Broadway? The jurors may not be familiar.

22 A Broadway is this -- (POINTING) in the center of this darker
23 line in the center here that runs east and west. This is
24 Broadway Street here. This right here is 7th Street that runs
25 north and south here. This area in here is considered the

1 northeast section of West Memphis on the ward map here.

2 Q What areas did you search?

3 A I searched this -- (POINTING) the major area here is made
4 up of residential neighborhoods in the northeast section of
5 town, and I searched abandoned houses, storm drains, just drove
6 over this area here.

7 Q About what time did you begin your search efforts that
8 morning, approximately?

9 A Approximately a few minutes after eight o'clock.

10 Q At some point in your searching did you receive some
11 dispatch of some need to go to another area?

12 A I was informed to go to the area of the end of -- it's West
13 McCauley -- the north end of West McCauley.

14 Q Let me put State's Exhibit 101 back up here and if you
15 could again, take the pointer and show the jury the area where
16 you then went to search.

17 A (POINTING) I was informed by an officer over the radio to
18 come to this area in regards to something that had been found.

19 Q What area are you referring to?

20 A (POINTING) This street right here is West McCauley. I
21 heard an officer check out on the north end of West McCauley
22 which would be right here. This is the Ten Mile Bayou here,
23 this larger ditch here, drainage ditch. I heard another officer
24 check out right there that they had some information from
25 somebody that was on foot.

1 Q After you got there, where did you go?

2 A I walked in behind another officer across this -- there is
3 a pipe right here, across this pipe --

4 Q Let me stop you right there. To get to the pipe, is it
5 just flat, level ground or how is it to get to the pipe?

6 A (POINTING) There is a -- from the road here you go over a
7 little -- there's like a mound of dirt then there's -- this is a
8 sloping hill here on the side of the ditch.

9 Q Down to the pipe?

10 A Yes, sir.

11 Q All right.

12 A (POINTING) And then the pipe goes over the Ten Mile Bayou
13 here where I was shown an area in the woods here.

14 Q Is that the area of the woods for the record immediately
15 east of Blue Beacon and that pond there?

16 A (POINTING) This is the Blue Beacon here. This is a pond
17 behind Blue Beacon and directly east this -- this location right
18 about here, approximately here.

19 Q When you got to that area, what if anything unusual did you
20 see in the creek?

21 A I was pointed out -- observed what appeared to be two small
22 tennis shoes floating in the creek.

23 Q After seeing these tennis shoes, what did you do?

24 A I went -- we were on top of a bank there -- I would say
25 ten, fifteen foot down to where the creek was -- I went to an

1 area where I felt I could cross which I crossed and went around
2 to the area where these tennis shoes were in the water.

3 Q Did you get in the water?

4 A Yes, sir, I did.

5 Q And after getting in the water, what did you find?

6 A My intentions were to reach -- get into the water and reach
7 for the tennis shoe, at which time when I got into the water I
8 felt an object in the water. I raised my right foot up and a
9 body floated to the surface of the water.

10 Q After making this discovery, what did you do?

11 A I got back out of the water, stood right there. The other
12 investigator that showed up at that time called for Inspector
13 Gitchell and the rest of the detectives to come to that area.

14 Q And then was a crime scene search done of that area that
15 afternoon?

16 A Yes, sir.

17 Q How long were you there at the scene?

18 A It was about one -- it was -- I would say -- I think the
19 radio log reflects 1:14. I was roughly there from 1:14 until
20 approximately 8:30 that evening.

21 Q I want to show you a photograph that's been marked for
22 identification purposes as State's Exhibit Nine and ask if you
23 recognize that photograph.

24 A (EXAMINING) Yes, sir.

25 Q Does that photograph fairly and accurately portray the area

1 at the time this occurred?

2 A Yes, sir.

3 MR. FOGLEMAN: Your Honor, we would offer State's
4 Exhibit Nine.

5 MR. STIDHAM: No objection.

6 THE COURT: It may be received without objection.

7 (STATE'S EXHIBIT NINE IS RECEIVED IN EVIDENCE)

8 BY MR. FOGLEMAN:

9 Q Detective Allen, if you would show on the photograph to the
10 jury the pipe that you crossed and the trails there.

11 A This right here is the very north end of West McCauley
12 where I parked my unit. I walked down this little trail here.
13 There's a little embankment here across this pipe. This is West
14 McCauley. This is the trail that leads up to the pipe that
15 crosses the Ten Mile Bayou. There's another trail that runs up
16 along this patch of woods and I was directed into the woods
17 through -- about right in through there to where I walked a
18 little ways into the woods to this creek that runs more or less
19 in this direction here. But it is in the woods covered with the
20 trees in this aerial photograph.

21 Q I want to show you two photographs marked for
22 identification purposes as State's 10 and 11 and ask if you can
23 identify those photographs?

24 A (EXAMINING) Yes, sir.

25 Q Do those photographs fairly and accurately portray the

1 scene as it appeared to you that day?

2 A Yes, sir.

3 MR. FOGLEMAN: We would offer State's Exhibits 10
4 and 11.

5 MR. STIDHAM: No objection.

6 THE COURT: They may be received without
7 objection.

8 (STATE'S EXHIBITS 10 AND 11 ARE RECEIVED IN
9 EVIDENCE)

10 BY MR. FOGLEMAN:

11 Q Beginning with State's Exhibit 11, is that picture taken
12 before or after the boys were found?

13 A This was taken before.

14 Q What are you doing there?

15 A At that point I was attempting to cross this small creek
16 ditch, and I had leaned over to that tree thinking I could grab
17 a hold of that tree and pull myself over. I didn't make it.

18 Q Is that State's Exhibit 11?

19 A Yes. I ended up in the water there.

20 Q I want to hand you what I've marked for identification
21 purposes as State's Exhibit 12 and ask if you can identify that
22 photograph.

23 A This is the --

24 Q Can you identify it?

25 A Yes, sir.

1 Q Does that photograph fairly and accurately portray the
2 scene as it appeared to you that day?

3 A Yes, sir.

4 MR. FOGLEMAN: Your Honor, I would offer State's
5 Exhibit 12.

6 MR. STIDHAM: No objection, your Honor.

7 THE COURT: It may be received without objection.

8 (STATE'S EXHIBIT 12 IS RECEIVED IN EVIDENCE)

9 BY MR. FOGLEMAN:

10 Q What is depicted in State's Exhibit Twelve?

11 A This is the first body that I discovered at the scene.

12 Q Is that Michael Moore?

13 A Yes, sir.

14 Q I want to show you what is marked for identification as
15 State's Exhibit 31 and ask if you can identify it?

16 A Yes, sir.

17 Q Does that photograph fairly and accurately portray the
18 scene as it appeared to you that day?

19 A Yes, sir.

20 MR. FOGLEMAN: We would offer State's Exhibit 31.

21 MR. STIDHAM: No objection.

22 THE COURT: It may be received without objection.

23 (STATE'S EXHIBIT 31 IS RECEIVED IN EVIDENCE)

24 BY MR. FOGLEMAN:

25 Q Is that your hands and feet?

1 A Yes, sir, it is.

2 Q What are you pointing to in the water?

3 A That is the location that I found the first body.

4 Q Was there anything -- where the first body was found, were
5 the other bodies found upstream or downstream?

6 A Downstream.

7 Q Was there anything about the surface of the water that was
8 different upstream or where the first body was found and
9 upstream as opposed to downstream?

10 A It was clearer in this area -- in this photograph here than
11 it was downstream.

12 Q What do you mean?

13 A The surface of the water was clear. It was a lot -- you
14 can see on down here it is a lot thicker with debris, sticks
15 bark, leaves.

16 Q Leaves, things like that?

17 A Yes, sir.

18 Q When you arrived on the scene -- where you found Michael
19 Moore's body, did the bank on both sides -- how did the bank do
20 on both sides of the little creek?

21 A The bank?

22 Q Was it continuously from top to bottom sloping down or were
23 there --

24 A No, sir. On the side which --

25 Q You can say Blue Beacon or Memphis side.

1 A On the Blue Beacon side it was a steep bank, straight up
2 steep on the side. On the other side there was like a plateau
3 or flat side.

4 Q Where was that flattened area in relation to where
5 Michael's body was found?

6 A It was right off of the flat area in the ditch.

7 Q Was there -- was there anything unusual about the flattened
8 area?

9 A It appeared to have been -- it was clean.

10 Q When you say, "it was clean," what do you mean?

11 A It looked as if, say you just -- you had a big area of
12 dirt. It appeared that just a lot of scuffing marks like
13 someone's feet were doing this number (DEMONSTRATING) but there
14 were no impressions that you could actually see of any
15 particular shoe in this given area. It appeared it had been
16 smoothed, like watered down with a water hose. It was clean to
17 be in that section of the woods.

18 Q Was there some grass on this flattened area?

19 A Yes.

20 Q Did you notice anything about the grass?

21 A Just the mud on the grass.

22 Q Was the grass standing up?

23 A It was -- to my best knowledge it looked like mud had been
24 -- it was on top of the grass. It was like smushed down.

25 Q Now the -- did you -- was there some additional crime scene

1 search done the next day or late that afternoon?

2 A Yes, sir.

3 Q What was done in the entire wooded area?

4 A There were numerous things done. There was a search made,
5 I say, inch by inch.

6 Q How was that conducted when you say it was done "inch by
7 inch?"

8 A It is quite a large area. We took all the detectives out
9 in that area. We started roughly from the interstate, the patch
10 of woods next to the interstate. We walked it shoulder to
11 shoulder. About -- we walked within hand's distance -- we kind
12 of lined up where we were touching each other's hands down a
13 row, and we walked into the woods. We walked from one side of
14 the woods to the other side. Then we got and kind of made a
15 chain down another section hand to hand and walked back.

16 Q Did you do that for the entire area?

17 A The entire wooded section.

18 CROSS EXAMINATION

19 BY MR. STIDHAM:

20 Q Who all was out there that day when you discovered the
21 first body? How many officers were there?

22 A When I first discovered the body, there was Steve Jones, a
23 juvenile officer, Denver Reed with the Search and Rescue, George
24 Phillips with the West Memphis Police Department and Lieutenant
25 Diane Hester of the West Memphis Police Department.

1 Q There was just one Search and Rescue team member there at
2 that time?

3 A He's -- I don't know -- he's joined -- he works in the
4 Sheriff's Department also but he is in with the Search and
5 Rescue.

6 Q Later on there were city employees out there with a pump.
7 Is that correct?

8 A During a period of time there were, yes, sir. We
9 sandbagged off and --

10 Q Officer Allen, that is the Blue Beacon truck wash?

11 A Yes, it is.

12 Q And this is the pipe that the children in the neighborhood
13 used to cross over the bayou?

14 A There is a pipe across the bayou.

15 Q Is that approximately where the bodies were recovered?

16 A If this -- from this aerial shot, I assume that this is the
17 ditch you're referring to as showing through the trees here that
18 you might be able to see a little bit of it. It is heavily
19 wooded but it would be say roughly somewhere in this given area.
20 This is from an aerial shot. That's my best --

21 Q These little things here are semi-trucks, eighteen wheeler
22 rigs?

23 A Yes.

24 Q Do you -- could you estimate how far it is from the bayou
25 to the interstate in yards, football fields?

1 A I would say roughly two hundred yards, little more.

2 Q How about from this side of this field to this side over
3 here to the truck wash? How far would you say that is?

4 A I'd be guessing, 75 yards.

5 Q So we are not talking about a real huge area, are we, of
6 wooded area?

7 A It is fairly good size.

8 Q About five hundred yards by one hundred yards
9 approximately?

10 A Wide, I don't -- I'm trying to compare it with a football
11 field as you mentioned.

12 Q But for the jurors, this being eighteen wheeler trucks,
13 they can sort of get an idea of how far it is?

14 A Yes, sir.

15 Q If you didn't know those were eighteen wheeler trucks, you
16 probably wouldn't be able to make that -- I guess these are
17 trucks moving down the interstate?

18 A Yes, sir. They can get an idea from that.

19 REDIRECT EXAMINATION

20 BY MR. FOGLEMAN:

21 Q On that flattened off area that you described about the
22 slicked off area, were there leaves on that?

23 A No, sir.

24 Q Were there leaves like there were in other areas?

25 A Might have been several, but it was not -- it did not look

1 as if the rest of the parts of the woods looked.

2 (WITNESS EXCUSED)

3 MR. FOGLEMAN: Your Honor, our next witness is
4 Bryn Ridge. There are several photographs that we
5 need to --

6 THE COURT: Do you need a short recess to go over
7 them?

8 MR. FOGLEMAN: Yes, sir.

9 THE COURT: All right. Ladies and gentlemen, you
10 may take a ten minute recess with the usual admonition
11 not to discuss the case among yourselves or with
12 anyone.

13 (THE FOLLOWING CONFERENCE WAS HELD IN CHAMBERS)

14 MR. STIDHAM: I would like to object strenuously
15 to what I think is improper behavior on the part of
16 the State in trying to cause problems with my expert
17 witness in the fact that they are attempting to have
18 him removed from the courtroom when I have him
19 subpoenaed here, and I think his testimony is
20 imperative, and I think that is improper conduct on
21 the State.

22 I don't think it is any concern of the
23 prosecuting attorney what, if any, hearings my expert
24 witness may have with his governing licensing board
25 and I think that's totally improper for him to pursue

1 such a course of conduct against a witness in this
2 case. I think it borders on intimidation.

3 THE COURT: Do you want to respond?

4 MR. DAVIS: Yes, sir. It's the State's position
5 if he puts himself out to be an expert and then
6 whatever disciplinary hearings or actions are pending
7 or scheduled against him, then the content of those
8 clearly becomes relevant as to his credibility and his
9 professional qualifications.

10 MR. STIDHAM: But it is not the prosecutor's job
11 to speed up any process that would not ordinarily take
12 place. It is not proper for the prosecuting attorney
13 to go out and ensure --

14 THE COURT: You're talking in riddles. What
15 specifically is the prosecutor doing that you're
16 objecting to?

17 MR. STIDHAM: I understand the prosecuting
18 attorney has contacted the Attorney General's Office
19 and the licensing board for psychologists or
20 psychiatrists, and he is trying to make sure that my
21 expert witness is not in the courtroom on Friday but
22 at this disciplinary hearing. I think that's entirely
23 improper. The Court ruled on this the other day that
24 he was not going to be allowed to go into that, and I
25 think this is absolutely improper.

1 THE COURT: Are you suggesting that the
2 prosecuting attorney had scheduled and accelerated and
3 in some way caused a hearing to be set on Friday?

4 MR. STIDHAM: I'm not saying he caused a hearing
5 to be set on Friday. He is doing everything he
6 possibly can to make sure my witness is there as
7 opposed to being here. It is common knowledge or
8 accepted practice that when someone is subpoenaed to
9 be in the courtroom, they could get a continuance on a
10 hearing. Why is it all of a sudden real important for
11 the prosecuting attorney to seek this special
12 treatment for my expert witness?

13 MR. FOGLEMAN: It has been scheduled for four
14 years.

15 MR. STIDHAM: It has been continued many times.

16 THE COURT: How long has the hearing been set?

17 MR. STIDHAM: I don't know.

18 THE COURT: Who set it?

19 MR. STIDHAM: Mr. Davis knows --

20 MR. DAVIS: Your Honor --

21 THE COURT: -- I understand Mr. Davis trying to
22 find any credible evidence he can to refute your
23 witness' testimony. That is what the prosecutor gets
24 paid to do.

25 What the Court is concerned about is a

1 representation was made this morning that he needed to
2 be in the courtroom to hear all of the testimony.
3 Frankly, that is a discretionary call by the Court. I
4 agreed to let the man stay in the courtroom. This was
5 before the Court had been informed that he possibly
6 had legal proceedings pending against him scheduled
7 for Friday. I don't want my court to be used as a
8 vehicle to avoid process on some other proceeding when
9 it is not necessary that he be in court.

10 MR. STIDHAM: I don't think that is the case.

11 THE COURT: All I'm ruling is that he is entitled
12 to be here. However, I don't think he needs to be
13 here for the whole trial based on what you told me.
14 I'm going to give him the opportunity to be here based
15 upon your assertion that it's necessary. If he's
16 scheduled for a hearing, then there's absolutely no
17 reason why he can't go. We have ample television
18 cameras in the courtroom. They can provide and will
19 provide a color videotape of any testimony that he
20 might miss. That tape can be taken with him, studied
21 and reviewed over the weekend.

22 However, if his testimony is needed and if he's
23 required to be here to testify on Friday, that is a
24 different issue, but I don't see any reason why he can
25 use this case as a basis for not meeting his --

1 MR. STIDHAM: Can I have his witnesses arrested
2 if they have outstanding warrants?

3 THE COURT: Do you have something specific --

4 MR. STIDHAM: I know of a witness that has three
5 outstanding warrants, and I would like for --

6 THE COURT: Go ahead. I don't care. Go ahead.

7 MR. STIDHAM: I think it is improper for the
8 prosecutor to be so concerned about making sure my
9 expert witness goes to his meeting.

10 THE COURT: That's what prosecutors do. I'm not
11 surprised nor perturbed by it. Now, what else?

12 MR. STIDHAM: The photographs we have been
13 provided by the State that they intend to introduce
14 through Officer Allen -- I'm sorry, Officer Ridge. We
15 don't have any -- would you read those off?

16 MR. CROW: We have no objection to 14, 15, 16,
17 18, 19, 25, 27, 28, 29, 30, 32, 34, 37, 37A, 37B, 38,
18 40, 41, 42, 56, 57, 58.

19 MR. STIDHAM: I understand the Court's ruling
20 with regard --

21 MR. CROW: -- We make the general objection that
22 we raised in limine on the photographs. I understand
23 -- we make the general objection to the photographs we
24 discussed this morning. We raise our objection again
25 to any photographs of the victims.

1 MR. STIDHAM: Our concern is that one of the
2 photographs of each of the victims depicting the
3 condition of their bodies would seem to be sufficient.
4 Duplicate photographs, which basically some of these
5 are the same as these, and one of these is the same as
6 have already been introduced by Officer Allen.

7 THE COURT: Refer to them by number. It looked
8 to the Court as you were going through them that you
9 are objecting to any view of the deceased bodies of
10 any one of the three victims.

11 MR. CROW: As a general objection on the front
12 end, your Honor, we would raise that objection.

13 MR. STIDHAM: I assume you have already ruled --

14 THE COURT: All I have ruled is that you would
15 have to object specifically when it was raised. I
16 wouldn't as a matter of a motion in limine preclude
17 it. I'm assuming that the State can give a neutral
18 reason for each photograph as a necessity in its case.
19 If they cannot and you object, that's a different
20 matter. So take them one at a time and we'll go
21 through them.

22 MR. CROW: Start with 17.

23 MR. STIDHAM: Your Honor, State's Exhibit 17
24 depicts the victim Branch as he is removed from the
25 water and is being placed on the bank of the creek.

1 If that is the only photograph that they intend to
2 introduce of the victim Branch -- our objection is we
3 don't think it is proper for the State to introduce
4 any of the pictures because their prejudicial value
5 highly exceeds any probative value because the Medical
6 Examiner and the officers who recovered the bodies can
7 testify as to what the wounds in the body are. I
8 think in a case involving children this area of
9 prejudice is extremely magnified in it could tend to
10 inflame the jurors and the courts have ruled that
11 repeated photographs -- our alternative argument --
12 that repeated or repetitious photographs are not
13 proper.

14 Our first objection would be that it should not
15 be allowed at all because of the prejudice, and our
16 alternative objection in light of the fact that we
17 anticipate your Honor would rule that it's admissible
18 is that only one photograph of each victim be allowed.

19 THE COURT: Do you want to respond? Number 17
20 right now.

21 MR. FOGLEMAN: Your Honor, as to Number 17,
22 number one, that is a photograph of Branch. It
23 depicts not only the condition of the body and the
24 manner in which it's tied but also the condition of
25 the water at the spot where he was removed.

1 MR. CROW: What is the relevance of the condition
2 of the water?

3 MR. FOGLEMAN: I think it is going to go to the
4 clean-up attempt that was made.

5 MR. STIDHAM: They have already introduced the
6 photographs that show the water conditions.

7 THE COURT: I'm going to allow photograph 17. It
8 shows clearly injuries to his face, the condition of
9 his body as it was found, basically completely nude.
10 Looks like there's some restraints on his body around
11 one leg and what appears to be binding on one hand and
12 where it appears that the other hand was bound and
13 from this photograph it looks like it was shoestrings
14 so I think there's relevant evidence there and based
15 upon my recollection of Misskelley's statement, some
16 of those matters are corroborative of his statement
17 and some are not.

18 MR. FOGLEMAN: As to Exhibit 17 of the victim
19 Branch and any other photograph of the victim Branch
20 -- and this goes to probative value being outweighed
21 by prejudicial effect -- we want to proffer 114, 119,
22 121, 131, 132, 133, 135, 136, 138 and 139 as examples
23 of other photographs that we could have offered but
24 which we chose not to.

25 THE COURT: These are extremely gross and

1 gruesome photographs. I'm going to have these
2 introduced or tagged as for identification purposes to
3 show additional photographs of the victim Branch's
4 condition immediately after being found and I would
5 not allow those. So the Court is excluding these and
6 they may be made a part of the record to establish to
7 any appellate reviewer the fact that the Court has
8 considered the nature of the photographs and finds
9 that State's Exhibit 17 is certainly a reasonable
10 photograph considering these others that are not being
11 allowed.

12 (STATE'S EXHIBITS 114, 119, 121, 131, 132, 133,
13 135, 136, 138 AND 139 ARE RECEIVED FOR IDENTIFICATION)

14 MR. STIDHAM: You mentioned that your
15 recollection of Mr. Misskelley's statement -- if we
16 assume for purposes of our argument with regard to
17 these photographs that his statement is correct, we
18 certainly don't submit that it is -- but for purposes
19 of argument let's assume for a moment that it is --
20 Mr. Misskelley never touched any of these victims or
21 struck them, hit them, killed them, raped them --

22 THE COURT: Seems like -- I don't remember where
23 I read it -- but I recall him saying something to the
24 effect that one of the other defendants struck one of
25 the boys real bad. He also made some contradictory

1 statements about how they were tied. And what was
2 done with their bodies and where it occurred and some
3 of those things are corroborative and some of them are
4 not. It depicts the crime scene, the location of the
5 body and certainly that is relevant to any issue the
6 State has to prove. It is also relevant to some
7 extent to show the degree of injury sustained by these
8 victims.

9 MR. STIDHAM: The point I'm trying to make -- our
10 argument is, Judge, that Mr. Misskelley did not
11 inflict those wounds --

12 THE COURT: I understood what you said.

13 MR. STIDHAM: The jury might be inflamed by the
14 injuries which were inflicted by the others and that
15 might prejudice Mr. Misskelley.

16 MR. FOGLEMAN: I think the jury can fairly
17 conclude -- they can draw their own conclusions of
18 whether or not Mr. Misskelley inflicted any wounds.

19 MR. STIDHAM: I will move on.

20 State's Exhibit 20 depicts, I believe, the victim
21 Moore.

22 MR. FOGLEMAN: That is Branch.

23 MR. STIDHAM: That's Branch. It depicts the
24 victim Branch being removed from the water and again
25 our objection would be the same as to Exhibit 17 and

1 we would submit that the photograph is repetitious due
2 to the fact that Officer Allen testified how the
3 bodies were removed. There's a photograph already in
4 evidence depicting the body being in the water.

5 THE COURT: This is a totally and completely
6 different view and if the State maintains some
7 relevancy, I'm going to allow it. I have seen a lot
8 worse than that.

9 MR. STIDHAM: Exhibit 22 depicts the victim
10 Moore. We would make the same objection to it.

11 THE COURT: Overruled. It is not -- while it
12 does depict an eight-year-old boy nude with facial
13 injuries, it is not that gross or prejudicial. It
14 does show the deceased remains as it was located.

15 MR. STIDHAM: State's Exhibit 23 depicts the same
16 thing as in 22 and we object as to repetition and also
17 the same arguments we had with 17.

18 MR. FOGLEMAN: This particular picture is mainly
19 showing the condition of the bank.

20 MR. CROW: There are other pictures of the bodies
21 that show the bank.

22 MR. FOGLEMAN: They don't show the bank like
23 these do. They are closer.

24 MR. STIDHAM: We disagree with the prosecutor.

25 THE COURT: It is a different view and it does

1 show the left leg restraints connected to the right
2 wrist. I'm going to allow it.

3 MR. STIDHAM: What does this show?

4 MR. FOGLEMAN: I'm not sure -- I don't --

5 MR. STIDHAM: Number 27 -- we object to anything
6 that they don't know what it is.

7 MR. FOGLEMAN: I said I didn't. That doesn't
8 mean the witnesses don't.

9 THE COURT: I'm going to allow 23.

10 MR. STIDHAM: Exhibit 24 shows the victim Byers
11 and his sexual mutilation and our specific objection
12 to that would be that that is a very shocking and
13 gruesome photograph and while it does show the
14 injuries to the victim, it is particularly gruesome
15 and that is something the Medical Examiner could
16 testify to.

17 THE COURT: How many pictures of this nature do
18 you have?

19 MR. FOGLEMAN: We would proffer on the victim
20 Byers 130 and 200 to show that we have chosen a much
21 less offensive picture.

22 THE COURT: I'm going to allow State's Exhibit 24
23 and the State is proffering 130 and 200.

24 (STATE'S EXHIBITS 130 AND 200 ARE RECEIVED FOR
25 IDENTIFICATION)

1 MR. FOGLEMAN: By proffering those we are not
2 necessarily admitting that they are so gruesome that
3 the jury shouldn't see them. We are saying we have
4 chosen a much less offensive photograph.

5 THE COURT: These likewise will be received for
6 identification purposes for any possible appellate
7 review that might be necessary to determine the extent
8 and scope of the Court's review of the photographs and
9 I think they depict that the State has chosen Exhibit
10 24 which is much less gruesome.

11 MR. STIDHAM: Your Honor, State's Exhibit 26
12 depicts the victim --

13 MR. FOGLEMAN: It is Moore.

14 MR. STIDHAM: All it shows is feet and genitalia.
15 I assume the photograph is being submitted to show the
16 condition of the bank. We submit it would be much
17 more probative without the victim's body and
18 genitalia.

19 THE COURT: It also shows his right extremities
20 bound by what appears to be a shoestring and shows
21 that his right hand is clenched into a fist.

22 MR. STIDHAM: I don't know how that is relevant.

23 MR. FOGLEMAN: To show the manner in which he is
24 tied and the condition of the bank. Your Honor, I
25 don't know that we actually have a photograph that

1 shows the detail that this does on the bank. If you
2 will look at the photograph, you can see all the scuff
3 marks and grass with the mud on it where it has been
4 cleaned up.

5 THE COURT: I'm going to allow that.

6 MR. STIDHAM: Can we cut part of the body out of
7 the picture?

8 THE COURT: I don't see any need to. The jury is
9 almost going to have to view the body.

10 MR. STIDHAM: State's Exhibit 33, 35, 36, and 39.
11 We would submit that these pictures basically all show
12 the same thing and they are repetitious and the
13 prejudice outweighs the probative value.

14 THE COURT: I'm going to rule that 33, 35, 36 and
15 39 are not particularly ugly photographs and that the
16 prejudicial effect, if any, certainly doesn't outweigh
17 any probative value that they might have so your
18 motion will be denied.

19 MR. FOGLEMAN: As to the victim Moore, we have
20 also proffered 106, 113 and 201 -- we would proffer
21 those to show that we have chosen less gruesome
22 photographs.

23 THE COURT: They may be received for
24 identification purposes for review.

25 (STATE'S EXHIBITS 106, 113 AND 201 ARE RECEIVED

1 FOR IDENTIFICATION)

2 MR. STIDHAM: That leaves us with 78 and 79
3 showing Mr. Misskelley at the time of his arrest. We
4 object to the relevancy of his arrest photograph. His
5 appearance on June third is that but his appearance on
6 May 5th was nowhere near that. The fact that he chose
7 to go out and get a squirrely haircut like some
8 wrestler on TV -- I think it is very prejudicial and
9 does not accurately depict the way he looked on May
10 5th.

11 MR. FOGLEMAN: I guess they can have somebody
12 testify about that. This whole case comes down to
13 Jessie's credibility, whether he is deceiving somebody
14 or not, and the way he appears then -- now they've got
15 him sitting out there looking like a choir boy -- and
16 I think we've got the right to show the jury the way
17 he is now is not the true Jessie Misskelley.

18 MR. STIDHAM: That ain't the true Jessie
19 Misskelley there. I don't see any relevancy.

20 THE COURT: If this is the way he looked at the
21 time of his arrest or in any close proximity, then I'm
22 going to allow the photographs. That will be a matter
23 of you verifying by proof --

24 MR. FOGLEMAN: The proof will be that was at the
25 time of his arrest.

1915

1 THE COURT: Exhibits 78 and 79, if it is verified
2 that is the way he looked immediately prior to or
3 after the event, then I'm going to allow them.

4 MR. CROW: Note our objection.

5 (RETURN TO OPEN COURT)

6 BRYN RIDGE

7 having been first duly sworn to speak the truth, the whole truth
8 and nothing but the truth, then testified as follows:

9 DIRECT EXAMINATION

10 BY MR. FOGLEMAN:

11 Q Will you please state your name and occupation?

12 A Bryn Ridge, detective for the West Memphis Police
13 Department.

14 Q How long have you been in law enforcement?

15 A Over ten years.

16 Q Detective Ridge, I want to direct your attention to May 6,
17 1993. What part, if any, did you play in the investigation of
18 the disappearance of Michael Moore, Steve Branch and Chris
19 Byers?

20 A I participated in the search for the missing juveniles and
21 also in the discovery of the bodies.

22 Q Approximately what time did you begin your search efforts?

23 A About 7:30 A.M.

24 Q What area were you assigned to search?

25 A I went first to Robin Hood Hills, this park on North

1 McCauley.

2 Q If you would, take the pointer and point to the area that
3 you went to.

4 A (POINTING) I went here into this area, Robin Hood Hills.

5 Q How far in did you go?

6 A There is a hill -- there is a pipe you cross right here
7 over this bayou ditch. There is a hill. You can see a path
8 coming across that hill. I went to just into the woods by that
9 path.

10 Q Was there anybody else in the woods?

11 A Yes, sir. There was one other person.

12 Q Who was that?

13 A It was a young man on a bike that was searching, hollering
14 for the kids also.

15 Q I want to show you what is marked for identification as
16 State's Exhibit 13 and ask if you can identify that.

17 A Yes, sir. That's a diagram of the area.

18 MR. FOGLEMAN: We offer State's Exhibit 13.

19 MR. CROW: No objection.

20 THE COURT: It may be received without objection.

21 (STATE'S EXHIBIT 13 IS RECEIVED IN EVIDENCE)

22 BY MR. FOGLEMAN:

23 Q On the diagram -- and of course it is not three dimensional
24 so you can't show the hills -- but where is it that you went?

25 A Across this pipe. I parked my vehicle here. Crossed this

1 pipe, walked up this trail. There's another trail that's
2 somewhat dimmer than this trail. I went across the hill and
3 come to this point right in here. That is where I went to.

4 Q About what time of day was that?

5 A That would have been early, probably at about eight o'clock
6 in the morning.

7 Q Then where did you go?

8 A Then the search just scattered from there. I actually
9 searched the weeded area that is west of there to 7th Street.
10 Then from 7th Street back to my vehicle.

11 Q The jury is not going to know where 7th Street is. If you
12 can take down the crime scene photograph and if the aerial
13 photograph shows the area where you searched, then if you could
14 point that out to the jury.

15 A (POINTING) This is 7th Street and north would be downward
16 on this map. When I went to here, I yelled for the boys or
17 looked for the bikes or whatever I could find. I couldn't find
18 anything. So I made my way all the way through this weeded
19 patch. You've got hills, ditches, culverts all the way to 7th
20 Street and then I crossed the bayou and came all the way back to
21 this weeded area here, back to my vehicle and continued to
22 search from there.

23 Q Then where did you go search?

24 A I searched all into this area (POINTING) from this little
25 street here. You come into this path and you walk around this

1 way and these paths are all connected. I searched all of these
2 woods into this area. I searched this wooded area here. This
3 is just a big thicket. There are no paths that go through it.
4 You have to dig your way through the vines.

5 By the time I made my way back to the vehicle again, it was
6 determined that I went and got my three wheeler and did some
7 searching on three wheelers.

8 Q When you were out searching the area, were there other
9 people searching, too?

10 A Yes.

11 Q Approximately how many people did you see searching?

12 A I saw probably 15 people.

13 Q In that area?

14 A Yes.

15 Q After you got your three wheeler, where did you go?

16 A I got my three wheeler. I parked on the Wal-Mart parking
17 lot which is about another mile to the west. If you go down the
18 expressway and just a little bit to the south of the expressway.

19 I got on the three wheeler. I searched all the way around
20 this field to the back of this lot. Of course, this is a two
21 hundred acre field and came all the way through there. Took my
22 three wheeler and came back through this area again, came back
23 out on this street.

24 Then I went on the east side of this ditch and started
25 looking at the edges of all of these fields.

1 Q At some point later on, did you receive some kind of word
2 that you needed to go back to the area of Robin Hood?

3 A Yes.

4 Q What did you do after you got that word?

5 A I immediately left from Airport Road which is a good three
6 miles away from the scene. By the time I got there, it was
7 about 1:30, and the bodies were discovered shortly after I
8 arrived.

9 Q After you arrived, what did you do?

10 A I talked to Mike Allen who explained how he had been in the
11 ditch attempting to retrieve some of the clothing items, those
12 items being floating in the water. I think they were shoes and
13 a hat. And he explained to me upon searching for those clothes
14 -- going to those clothes he had found a body.

15 Q After receiving that information, what did you do?

16 A I actually went into the ditch.

17 Q Was anything done to secure the scene?

18 A Yes. We started having people -- anybody that was there --
19 of course, when I got there, there was Mike Allen and Lieutenant
20 Hester and Inspector Gitchell was there somewhere, but I'm not
21 sure where he was. I was focusing on what was going on in the
22 ditch, and myself and Mike Allen actually went into the ditch.

23 Q What did you do to secure the scene at that point?

24 A Crime scene tape was put out. A path was secured coming
25 from outside the woods into the crime scene so we could come in

1 in unique ways in order that there -- if there was evidence
2 there that we missed, then we would not have destroyed that on
3 the original paths.

4 Q You made a new path?

5 A Yes, sir.

6 Q You mentioned that you -- first, let me show you State's
7 14, 15 and 16 and ask if you can identify these.

8 MR. STIDHAM: Your Honor, may counsel approach
9 the bench?

10 (THE FOLLOWING CONFERENCE TOOK PLACE AT THE BENCH
11 OUT OF THE HEARING OF THE JURY)

12 MR. STIDHAM: I just want to note our objections
13 that we had in chambers. As these are coming in, I
14 don't want to stand up and object every time and
15 repeat --

16 THE COURT: These are some that weren't objected
17 to.

18 MR. STIDHAM: I understand, but I mean when we
19 get to the ones -- if we can just -- I don't want to
20 waive our arguments.

21 THE COURT: You're not waiving your argument at
22 at all.

23 (RETURN TO OPEN COURT)

24 BY MR. FOGLEMAN:

25 Q Can you identify those?

1 A Yes. These are aerial photographs of the scene.

2 Q Do they fairly and accurately portray the scene as it
3 appeared to you that day?

4 A Yes, sir.

5 MR. FOGLEMAN: Your Honor, we would offer State's
6 Exhibits 14, 15 and 16.

7 THE COURT: They may be received subject to the
8 previous ruling of the Court.

9 (STATE'S EXHIBITS 14, 15 AND 16 ARE RECEIVED IN
10 EVIDENCE)

11 BY MR. FOGLEMAN:

12 Q If you would step down and explain these to the jury,
13 please.

14 A Ladies and gentlemen, this is an aerial photograph of the
15 area known as Robin Hood Woods. This is Mayfair Apartments.
16 That would be these apartments here. This end of this street is
17 West McCauley and here is the pipe.

18 Q Which exhibit number are you referring to?

19 A Exhibit 14. Also on this picture, here's the pipe and this
20 is the bayou -- Ten Mile Bayou. You can see the path coming
21 through the woods. This comes into the back of the Blue Beacon
22 which is this establishment here. You can see the path also
23 here in this picture.

24 There is a path here that breaks off and comes across a
25 hill that you can barely see in this picture also. The bodies

1 of the victims were found in this area. This area here is the
2 waste water from the Blue Beacon where it has to be treated
3 before it can be put into the sewer systems and that is this
4 pond that you can see here.

5 The next picture which is Exhibit 15 is just a higher
6 picture. This is if you are in the west looking down at the
7 scene, Memphis would be here to the east from this area so we
8 are looking sort of in a southeasterly direction. These are
9 Mayfair Apartments. This is McCauley. The pipe goes across
10 right here and this is the area where the bodies were found,
11 Blue Beacon, 76 Truck Stop, 7th Street, 14th Street would be the
12 row of houses behind the green grassy area. It would be East
13 Junior High School and Weaver Elementary.

14 This is another higher picture. This is 7th Street. 7th
15 Street runs almost due north and south so we are looking just a
16 little bit north and east. Memphis would be here to the right.
17 Again here is East Junior High School, Weaver Elementary. This
18 is 14th Street. This is Goodwin. This is West McCauley. This
19 area here is the patch of woods known as Robin Hood Hills. This
20 establishment here is the Blue Beacon, 76 Truck Stop and Mayfair
21 Apartments.

22 Q Detective Ridge, after you got there, I believe you said
23 you had gotten in the water?

24 A Yes, sir.

25 Q After you got in the water, what did you do?

1 A I got into the water north of the bodies, north of the
2 victim that had been located, who we discovered was Michael
3 Moore. I proceeded to work my way through the water, through
4 the ditch and being careful not to destroy any evidence I was
5 searching the bottom of the ditch as I made my way to the body.

6 Q When you say you were, "searching the bottom of the ditch,"
7 what do you mean?

8 A Okay, obviously you can't see into this muddy water so the
9 best way to describe it is as I actually do it. From the water
10 level -- I was raking my hands from one bank of the water to
11 where it came out on the other side along the bottom all the
12 way. That's what I did until I made my way to that body.

13 Q After you made your way to Michael Moore, what did you do?

14 A We took the body of Michael Moore from the water.

15 Q Then what did you do?

16 A I continued the search.

17 Q In the same manner?

18 A Yes. I did. I'm the one that stayed in the ditch the
19 entire time from start to finish until all the bodies were found
20 to as far as I could go in that ditch and reach the bottom.
21 That's the way I searched it.

22 Q About how many feet would you say that you went in that
23 manner?

24 A Probably about 45 feet.

25 Q In doing that did you find anything besides Michael Moore,

1 Steve Branch and Chris Byers?

2 A The clothing of the victims.

3 Q I mean was -- was the clothing floating in the water or how
4 did you find them?

5 A No, sir, the best description is they were actually pushed
6 into the mud in the bottom of the creek. Some of the tennis
7 shoes and a hat were actually floating in the water, but there
8 were some pants and a shirt that were actually stuck in the mud
9 in the bottom of the ditch.

10 Q I want to show you State's Exhibit 8 and ask if you can
11 identify that?

12 A This is a blue and yellow Cub Scout cap --

13 Q First, can you identify it?

14 A Yes, sir.

15 Q How can you identify it?

16 A It has my initials, and number and date I recovered it.

17 Q Where did you recover that item?

18 A It was floating in the water.

19 MR. FOGLEMAN: Your Honor, we would offer State's
20 Exhibit 8.

21 MR. STIDHAM: No objection, your Honor.

22 THE COURT: It may be received without objection.

23 (STATE'S EXHIBIT 8 IS RECEIVED IN EVIDENCE)

24 BY MR. FOGLEMAN:

25 Q Would you open the bag?

1 A (COMPLIES)

2 Q Is State's Exhibit 8 the Cub Scout cap that you recovered
3 from the water there?

4 A Yes, sir.

5 Q You can return it to the sack.

6 A (COMPLIES)

7 Q I want to show you State's Exhibits 43, 44 and 45 and ask
8 if you can identify those?

9 A (EXAMINING) Yes, sir, I can.

10 Q How can you identify those?

11 A They have my initials, the number and the date.

12 Q Each one of them?

13 A Yes.

14 Q Where did you recover those items?

15 A They were in the ditch.

16 Q In relation to where Michael, Steve and Chris were, where
17 did you find them?

18 A Near Michael.

19 MR. FOGLEMAN: Your Honor, we would offer State's
20 Exhibits 43, 44 and 45.

21 MR. STIDHAM: We have no objection.

22 THE COURT: They may be received.

23 (STATE'S EXHIBITS 43, 44 AND 45 ARE RECEIVED IN
24 EVIDENCE)

25 BY MR. FOGLEMAN:

1 Q State's Exhibit 45, what is in the sack?

2 A A pair of blue pants.

3 Q And in 44?

4 A White polka-dot shirt.

5 Q And in State's Exhibit 43?

6 A A blue Boy Scout shirt.

7 Q I show you what I've marked for identification as State's
8 Exhibits 46A and 46B and ask if you can identify those?

9 A (EXAMINING) Yes, sir, I can.

10 Q And how can you identify them?

11 A They have my initials and date on them.

12 Q Where did you recover those items?

13 A In the water.

14 Q In the water where?

15 A Floating in the water in the ditch where Michael Moore was
16 found.

17 MR. FOGLEMAN: Your Honor, we offer State's
18 Exhibits 46A and 46B.

19 MR. STIDHAM: Your Honor, I just don't know what
20 they are.

21 BY MR. FOGLEMAN:

22 Q What are they?

23 A Each one is one white tennis shoe.

24 MR. STIDHAM: No objection, your Honor.

25 THE COURT: All right, they may be received

1 without objection.

2 (STATE'S EXHIBITS 46A AND 46B ARE RECEIVED IN
3 EVIDENCE)

4 BY MR. FOGLEMAN:

5 Q At this time I want to show you what is marked for
6 identification as State's Exhibits 47A and 47B and ask if you
7 can identify those?

8 A (EXAMINING) Yes, I can.

9 Q How can you identify those?

10 A They have my initials and the date on them.

11 Q Where did you recover those items?

12 A In the water near Michael Moore.

13 Q And what are they?

14 A One is a black tennis shoe and the other one is a black
15 tennis shoe.

16 Q Is it just black or --

17 A With purple interior, both of these.

18 MR. FOGLEMAN: Your Honor, we would offer State's
19 47A and 47B.

20 MR. STIDHAM: No objection.

21 THE COURT: They may be received without
22 objection.

23 (STATE'S EXHIBITS 47A AND 47B ARE RECEIVED IN
24 EVIDENCE)

25 BY MR. FOGLEMAN:

1 Q I want to show you what is marked for identification as
2 State's Exhibits 48, 49 and 50 and ask if you can identify
3 those?

4 A (EXAMINING) Yes, sir, I can.

5 Q How can you identify those?

6 A Each sack has my initial and number and the date.

7 Q Where did you recover those items?

8 A In the water near the body of Michael Moore.

9 THE COURT: What are they?

10 THE WITNESS: Pair of blue jeans with a blue
11 wallet, a striped shirt and one pair of child's
12 underwear.

13 MR. FOGLEMAN: We would offer 48, 49 and 50.

14 MR. STIDHAM: No objection.

15 THE COURT: They may be received.

16 (STATE'S EXHIBITS 48, 49 AND 50 ARE RECEIVED IN
17 EVIDENCE)

18 BY MR. FOGLEMAN:

19 Q I want to show you what I've marked for identification as
20 State's Exhibits 51A and 51B and 52 and ask if you can identify
21 those?

22 A (EXAMINING) Yes, sir, I can.

23 Q How can you identify those?

24 A They have my initials and the date.

25 Q Where did you recover those?

1 A In the water near the body of the victims.

2 Q What are they?

3 A Black tennis shoe, a black tennis shoe with a sock and a
4 pair of blue jeans.

5 MR. FOGLEMAN: Your Honor, we would offer State's
6 Exhibits 51A, 51B and 52.

7 MR. STIDHAM: No objection.

8 THE COURT: They may be received.

9 (STATE'S EXHIBITS 51A, 51B AND 52 ARE RECEIVED IN
10 EVIDENCE)

11 BY MR. FOGLEMAN:

12 Q When you found the pants, how were they?

13 A Best memory I have, two of the pair of pants were turned
14 inside out, still buttoned. I believe they were still zipped.
15 And one of the pair was right side out.

16 Q Did you leave them in that condition when you bagged them?

17 A Yes, sir.

18 Q I want to show you three photographs marked for
19 identification as State's Exhibits 25, 29 and 30 and ask if you
20 can identify those.

21 A (EXAMINING) Yes, sir, I can.

22 Q Do those photographs fairly and accurately portray the
23 scene as it appeared to you that day on May 6th?

24 A Yes, sir.

25 MR. FOGLEMAN: We offer State's Exhibits 25, 29

1 and 30.

2 THE COURT: They may be received subject to the
3 previous orders of the Court.

4 (STATE'S EXHIBITS 25, 29 AND 30 ARE RECEIVED IN
5 EVIDENCE)

6 BY MR. FOGLEMAN:

7 Q Officer, would you step down and exhibit these to the
8 jury and explain the photographs.

9 A This is an enlarged photograph of the crime scene --

10 Q Which exhibit number is that?

11 A Exhibit 25. We are in the north looking in a southerly
12 direction even a little bit to the southeast. This is the ditch
13 where the bodies were found. Michael Moore was found in this
14 area. Steve Branch was found just behind where these trees are
15 in the stream and Chris Byers was found just below that body.

16 Q Let me interrupt you a minute. Michael Moore, which way
17 was his head and which way were his feet?

18 A Michael Moore's head was in a northerly direction. His
19 feet were to the south in the stream.

20 Q His head would have been upstream or downstream?

21 A Upstream.

22 Q And on Steve and Chris, how were they?

23 A Their feet were northbound, or upstream, and their head was
24 downstream.

25 Q Go ahead.

1 A This mark on the tree -- when we say it is an accurate
2 description of where I found it -- this mark was put there as a
3 marker for measurements being taken on the crime scene. There's
4 also a mark on one of these trees, but the rest of the crime
5 scene would be similar to that except this black plastic was not
6 there when we first got there. The black plastic was used to
7 recover the bodies after we removed them from the water.

8 Exhibit 29 -- this is the ditch where the bodies were
9 found. We are looking again toward the south and the body of
10 Steve Branch was found in this area. The body of Chris Byers
11 was found right here. And this is me here in the background
12 after we had removed the bodies. We were searching for anything
13 that may have been missed during the initial search, and we
14 pumped all of the water out. This is a suction hose where we
15 were pumping the water out of the stream.

16 Q You say you pumped all the water out?

17 A All we could get out of it.

18 Q After you pumped all the water out, what did you do looking
19 for evidence?

20 A We again visually searched everything. We got a metal
21 detector, searched everything that was there, trying to find
22 anything that might have been a piece of evidence.

23 Q Anything of significance found?

24 A No, sir.

25 Q Were efforts also made to search in Ten Mile Bayou?

1 A Yes, sir.

2 Q What was that done with?

3 A It was quite a bit deeper area. I walked through this
4 ditch all the way into Ten Mile Bayou. When it got up to my
5 neck, I had to turn and come back out. It was up to my neck in
6 the bayou and we took a boat and got into the bayou itself and
7 drug a large magnet to pick up any metal items that might have
8 been in the bayou.

9 Also, the bayou was searched with a grappling hook and the
10 bikes of the victims were found in the bayou.

11 This is another photograph of preparing -- attempting to
12 pump the water out of the ditch. This is a ditch. We are
13 looking in a southerly direction. The body of Michael Moore was
14 found here. The body of Steve Branch behind the trees in the
15 ditch here. The body of Chris Byers was found in the ditch
16 below that. This is Exhibit 30.

17 Q Let me put Exhibit 13 back up here and if you could take my
18 red pen and put -- if you've got a better marker, that will be
19 better. Put a mark on there where Michael was found and where
20 Steve and Chris were found.

21 A Michael Moore was found in this area, Steve Branch was
22 found here and Chris Byers just below him here.

23 Q I want to show you what is marked for identification as
24 State's Exhibit 18 and 19 and ask if you can identify those
25 photographs?

1 A (EXAMINING) Yes, I can.

2 Q Do they fairly and accurately portray the scene as it
3 appeared to you that day?

4 A Yes, sir.

5 MR. FOGLEMAN: Your Honor, we would offer 18 and
6 19.

7 THE COURT: They may be received subject to the
8 previous rulings of the Court.

9 (STATE'S EXHIBITS 18 AND 19 ARE RECEIVED IN
10 EVIDENCE)

11 BY MR. FOGLEMAN:

12 Q Then I want to show you what I've marked for identification
13 as State's Exhibits 32, 38 and 42 and ask if you can identify
14 those photographs?

15 A (EXAMINING) Yes, sir, I can.

16 Q Do those photographs fairly and accurately portray the
17 scene as it appeared to you?

18 A Yes, sir.

19 MR. FOGLEMAN: Your Honor, we would offer State's
20 Exhibits 32, 38 and 42.

21 THE COURT: They may be received.

22 (STATE'S EXHIBITS 32, 38 AND 42 ARE RECEIVED IN
23 EVIDENCE)

24 MR. FOGLEMAN: May Detective Ridge exhibit to the
25 jury?

1 THE COURT: Yes.

2 BY THE WITNESS:

3 A This is me removing one of the shoes from the water. In
4 the background here you can see there's trash floating in the
5 stream here and particularly there is a stick right here that
6 whether it be carved or whatever, I don't know. It is just a
7 stick that we found floating in the water near the crime scene.
8 This particular picture is taken in this area here from the
9 north looking to the south and that is Exhibit 19.

10 Exhibit 18 is some of the items floating in the water that
11 were found. There are a couple of sticks here. We've got a
12 white tennis shoe, black tennis shoe, Boy Scout cap, pair of
13 child's underwear and there's another shoe here, and this is the
14 way these items were found in the water.

15 That is the portion of the bayou. Just below -- there's
16 some limbs that came out into the ditch just below Michael
17 Moore's body.

18 This is a picture of the two sticks here and on the end of
19 one of those sticks is -- turned out to be a white shirt. As I
20 approached the body of Michael Moore, this stick became
21 dislodged and up came with it the shirt that looked like it had
22 been jabbed down into the mud.

23 Q What do you mean when you said it "became dislodged?" What
24 did you see when you first walked past it?

25 A When I first walked the stream, the stick was sticking up

1 in the mud.

2 Q You could see it?

3 A Yes.

4 Q All right.

5 A As I'm going to the body, it became dislodged and when it
6 came floating up, the shirt was wrapped around the end of the
7 stick. This is Exhibit 42.

8 Exhibit 38 is me removing that shirt from that stick that
9 came floating up. The stream in this area there is little or no
10 trash as far as leaves or limbs. It's just those items that
11 were disturbed when I went into the creek, and the stick was one
12 of those items that was disturbed.

13 Q How about further downstream?

14 A As in this picture, this stick with the carvings on it,
15 which is Exhibit 32, you can see there's trash all in the stream
16 at this particular area.

17 This is upstream which is near the body of Michael Moore.
18 That is Exhibit 38.

19 Exhibit 32 is downstream from that area about in this area.

20 Q What movement, if any, of the water was there?

21 A Very little movement. Very slow flow.

22 Q I want to show you what I've got marked for identification
23 as State's Exhibit 53 and ask if you can identify that?

24 A (EXAMINING) Yes, sir, I can.

25 Q How can you identify it?

1 A It was packaged and labeled by me as evidence number E-17
2 and it was the stick that was found floating in the water below
3 Michael Moore.

4 Q Is that the stick that is in your hand in State's Exhibit
5 32?

6 A Yes, it is.

7 MR. FOGLEMAN: We would offer State's Exhibit 53.

8 MR. STIDHAM: No objection.

9 THE COURT: It may be received without objection.

10 (STATE'S EXHIBIT 53 IS RECEIVED IN EVIDENCE)

11 BY MR. FOGLEMAN:

12 Q I want to show you what I've marked for identification as
13 State's Exhibits 54 and 55 and ask if you can identify it?

14 A (EXAMINING) Yes, I can.

15 Q How can you identify it?

16 A It was packaged in a package labeled by me and dated by me.

17 Q Where did you recover that item?

18 A It was originally in the ditch near Michael Moore.

19 Q If you would, open the other one.

20 A (EXAMINING) Yes, sir, I can identify this one also.

21 Q How can you identify it?

22 A It's one of the sticks that was floating in the water near
23 Michael Moore.

24 Q Was one of these sticks the one that had the clothes?

25 A Yes, sir, I believe it was this one --

1 Q When you say, "this one," which exhibit number are you
2 referring to?

3 A This would have been Exhibit 54.

4 MR. FOGLEMAN: We offer State's 54 and 55.

5 MR. STIDHAM: No objection.

6 THE COURT: They may be received without
7 objection.

8 (STATE'S EXHIBITS 54 AND 55 ARE RECEIVED IN
9 EVIDENCE)

10 BY MR. FOGLEMAN:

11 Q I want to hand you what I've marked for identification as
12 State's Exhibits 33, 34, 37A, 40 and 41 and ask if you can
13 identify those?

14 A (EXAMINING) Yes, sir, I can.

15 Q How can you identify those?

16 A These are photographs of the crime scene, removing of the
17 clothing items and the body of Michael Moore.

18 Q Do those photographs fairly and accurately portray the
19 scene as it appeared to you that day?

20 A Yes, sir.

21 MR. FOGLEMAN: Your Honor, we would offer State's
22 Exhibits 33, 34, 37A, 40 and 41.

23 THE COURT: They may be received.

24 (STATE'S EXHIBITS 33, 34, 37A, 40 AND 41 ARE
25 RECEIVED IN EVIDENCE)

1 MR. FOGLEMAN: Your Honor, may Detective Ridge
2 step down again and exhibit to the jury?

3 THE COURT: Yes.

4 BY THE WITNESS:

5 A This is a Polaroid photograph of Sergeant Allen. This is
6 Exhibit 33. This is Sergeant Allen and this is me. As I have
7 searched, I came across this pair of pants that was being
8 removed from the water by me prior to taking the body from the
9 water, and that is the body of Michael Moore that we are
10 removing from the water at that point.

11 This is me -- these are clothing items including shoes that
12 were being taken from the water which was just below the body of
13 Michael Moore. This is Exhibit 34. This is a picture of me,
14 and it is me removing the Cub Scout cap from the water which was
15 located below the body of Michael Moore. This is Exhibit 37A.

16 Q When you say "below the body," what do you mean?

17 A Downstream.

18 This is Exhibit 40, which is me removing a pair of pants
19 from the water which again were found below the body --
20 downstream from Michael Moore.

21 This is also a picture of me, Exhibit 41. It is removing a
22 shoe from the water which again is downstream from the body of
23 Michael Moore. Again in this picture you can see a lot of trash
24 here in the water.

25 Q I want to show you what has been marked for identification

1 as State's Exhibits 26, 27, 37B and 23 and ask if you can
2 identify these?

3 A (EXAMINING) Yes, sir, I can.

4 Q I also want to show you what have been marked for
5 identification as State's 35, 36 and 39 and ask if you can
6 identify those photographs?

7 A (EXAMINING) Yes, sir, I can.

8 Q Do those photographs fairly and accurately portray the
9 scene as it appeared to you?

10 A Yes, sir.

11 MR. FOGLEMAN: We offer State's Exhibits 27, 26,
12 37B, 35, 23, 36 and 39.

13 THE COURT: Are all those exhibits we reviewed in
14 the back?

15 MR. FOGLEMAN: Yes, sir.

16 THE COURT: They may be received subject to my
17 previous rulings.

18 (STATE'S EXHIBITS 23, 26, 27, 35, 36, 37B AND 39
19 ARE RECEIVED IN EVIDENCE)

20 BY MR. FOGLEMAN:

21 Q Starting with Exhibits 39, 36 and 35 if you could explain
22 to the jury those.

23 A Exhibit 39 which is myself and Detective Sergeant Allen
24 removing the body of Michael Moore from the water.

25 Q Which exhibit is that?

1 A Exhibit 39.

2 Exhibit 36 is myself removing the body of Steve Branch from
3 the water.

4 Exhibit 35 is myself removing the body of Chris Byers from
5 the ditch.

6 Q I want to show you State's Exhibits 27 and 37B and ask you
7 to describe those photographs?

8 A Exhibit 27 is the bank on the east side from where the body
9 of Michael Moore was located. This area right here between the
10 slanted line and this tree is like a shelf -- an area that is
11 not as extremely sloped as the rest of it. You can see where it
12 appears to be slicked off where something has scooted across the
13 bank or cleaned of debris or whatever. That is Exhibit 27.

14 Q In relation to the surrounding area how did it compare in
15 the amount of leaves?

16 A It looked as though it had been cleaned of leaves and
17 debris.

18 This is that same shelf. It is on the east bank. This is
19 the area where it looks like it had been slicked off or cleaned
20 off. The grass is embedded in the mud. I don't know what the
21 reason would be other than if you raked your hand across that
22 portion, the grass would be embedded in the mud at that
23 location.

24 Q I want to -- on Exhibit 23.

25 A Yes, sir. Again this is where -- this is the body of

1 Michael Moore. This portion of the bank is that shelf on the
2 east side of where his body was located. I'm pointing out the
3 injuries as those injuries are being documented by other
4 officers. He had injuries to his head. Again, you can see this
5 muddy bank where it appears something has raked across it.

6 Q And 26.

7 A This again is the body of Michael Moore and this bank, and
8 it shows in more detail. You can see mud over the top of this
9 grass where it has been raked through the mud. This is Exhibit
10 26.

11 Q I want to show you what has been marked for identification
12 as State's Exhibit 17, 20, 22 and 24 and ask if you can identify
13 these photographs.

14 A (EXAMINING) Yes, sir.

15 Q Do those photographs fairly and accurately portray the
16 scene as you saw it?

17 A Yes, sir.

18 MR. FOGLEMAN: Your Honor, we would offer State's
19 Exhibits 24, 20, 22 and 17.

20 THE COURT: They may be received subject to the
21 previous rulings of the Court.

22 (STATE'S EXHIBITS 17, 20, 22 AND 24 ARE RECEIVED
23 IN EVIDENCE)

24 BY THE WITNESS:

25 A This is Exhibit 22 which is the body of Michael Moore after

1 removing him from the water the way he was found.

2 Q Does this also show the bank that you have talked about?

3 A Yes, sir, this is the bank where he was placed.

4 This is the body of Steve Branch and it is where he has
5 been removed from the water by me. Steve Branch is the young
6 man that had the injuries to his face.

7 Q Was it a particular part of his face?

8 A To the left side of the chin area.

9 This is State's Exhibit 20. Exhibit 17 was the number of
10 the picture of Steve Branch. This is Exhibit 20. This is Steve
11 Branch being removed from the ditch by me.

12 State's Exhibit 24 is the body of Chris Byers.

13 Q What kind of injuries did Chris Byers have?

14 A Looked as though his penis had been removed and there were
15 stab marks all over the area around his penis.

16 Q I want to show you State's Exhibit 28 and ask if you can
17 identify that?

18 A (EXAMINING) Yes, sir, I can.

19 Q Does that photograph accurately portray that area as it
20 appeared to you that day?

21 A Yes, sir.

22 MR. FOGLEMAN: We offer State's Exhibit 28.

23 MR. CROW: No objection.

24 THE COURT: It may be received without objection.

25 (STATE'S EXHIBIT 28 IS RECEIVED IN EVIDENCE)

1 BY THE WITNESS:

2 A This is Exhibit 28. It is a picture of the creek, the
3 crime scene, from the south to the north and just a little bit
4 east. This is the bottom of the ditch.

5 Q Is that after it has been pumped out?

6 A Yes.

7 Q About what was the level of the water before it was pumped
8 out?

9 A Just above my knee.

10 Q How far would it have gone up on that picture?

11 A On this picture it would be about this line. (MARKING) I
12 marked the picture right here.

13 Q Is that flattened area -- was there anything on that area?

14 A Yes, sir, there was some stuff there but it wasn't as the
15 rest of the surrounding woods. There wasn't as much stuff
16 there.

17 Q Where was that flattened area in relation to where Steve
18 and Chris were found?

19 A It was just to the west and a little bit to the north of
20 where their bodies were found.

21 Q From that flattened area, what is the terrain up to the top
22 of the bank?

23 A From that flattened area, it goes steep up to the top of
24 the bank.

25 Q If you could show the jury where Exhibit 28 is on the

1 diagram.

2 A (INDICATING) This is denoting a tree. That is this tree.
3 This shelf area here is what is being denoted behind this tree
4 here. Here is the creek as the second bank or the line that I
5 marked here. That is what we call the second bank. That is
6 where the water level normally runs.

7 Q Does the diagram reflect a certain elevation?

8 A Yes, sir, they do.

9 Q If you could point out the area shown on there and the
10 elevation?

11 A The top of the bank which would have been level with the
12 surrounding terrain at the crime scene is an elevation of 215
13 point zero feet above the mean sea level which is average sea
14 level for a particular day. The shelf elevation is 210 foot.
15 That means that approximately five foot below the elevation of
16 the top bank is this shelf area.

17 Q Is this the area we have talked about about being slicked
18 off?

19 A Yes.

20 Q Go ahead.

21 A The actual bottom of the ditch is 207 point 5 feet which is
22 7 and a half feet below the top of the bank or the mean
23 elevation of 215 feet.

24 Q The low bank elevation, which this is basically a ditch
25 within a ditch. This whole white area that you see would be a

1 ditch if there were a large amount of water coming through the
2 ditch. Under normal flow conditions this is a ditch within that
3 ditch, and that is the bank that actually does a sharp cut down
4 to the bottom of the ditch.

5 Q When you were in the creek or ditch where Michael and Steve
6 and Chris were found, what can you see up on the top?

7 A You can't hardly see anything. The bank is up here -- it
8 is so steep that you're going to have to have somebody within
9 six foot of that edge before you would even know somebody is
10 there.

11 Q Detective Ridge, when Michael and Steve and Chris were
12 found, what were their positions in the water?

13 A Michael Moore was laying on his left side facing Memphis.
14 Steve Branch was laying face down, his face, chest and knees
15 actually touching the ground on the bottom of the ditch. And
16 Chris Byers was in the same position, face down.

17 CROSS EXAMINATION

18 BY MR. STIDHAM:

19 Q How many folks were out there the day the bodies were
20 recovered? Can you name the folks that were out there?

21 A Name each and every person? No, sir.

22 Q How many people would you estimate were there?

23 A During the search or during the period of time when the
24 bodies were found?

25 Q I assume there were folks out there searching and then the

1 bodies were discovered. How many were there at the actual site
2 where the bodies were recovered?

3 A When I got there, I remember seeing Detective Allen,
4 Detective Lieutenant Hester and Detective Burch.

5 Q Were there also members of the Crittenden County Search and
6 Rescue team present?

7 A I didn't see any.

8 Q Did they come up later after the bodies were recovered?

9 A I don't think anybody came up after that.

10 Q Isn't it true that the city sent some employees to help you
11 pump some water from the stream?

12 A Yes, sir.

13 Q So they were present?

14 A After the bodies had been removed. Yes, sir.

15 Q Officer Ridge, could you point to the service road just off
16 the interstate?

17 A This is the south service road, interstate 40 and 55.

18 Q That service road is how the patrons of the Blue Beacon
19 truck wash get in and out?

20 A Yes, sir.

21 Q How far would you estimate -- I know you can't give me an
22 exact figure -- how far would you estimate it is from where the
23 bodies were recovered here to the service road?

24 A If one inch is 40 foot, if I had a ruler, I could tell you.

25 Q Give me your best estimate.

1 A Probably some four hundred fifty feet.

2 Q Four hundred fifty feet or yards?

3 A I would say feet. Yes, sir.

4 Q Could you hear the traffic on the interstate 40 and 55 as
5 you were at the crime scene?

6 A Yes, sir.

7 Q Could you see the traffic going by?

8 A If you were up on the high bank.

9 Q So if you were down in the creek bottom, you wouldn't have
10 been able to see the interstate?

11 A You may have gotten glimpses if you were at just the right
12 point looking up through the ditch, but probably it would have
13 been very difficult to see any traffic on the expressway.

14 Q How dense was the forest?

15 A It is May. That is a good growing time in our region. The
16 new leaves are really beginning to come out at that point.

17 Q Could you see the truck wash from where the bodies were
18 recovered?

19 A It would have been difficult to make it out if it is not
20 moving but because of the color of the Blue Beacon, you could
21 probably make out there was something there.

22 REDIRECT EXAMINATION

23 BY MR. FOGLEMAN:

24 Q Did y'all conduct a little experiment where somebody got
25 down in the ditch and yelled?

1 A I understand it took place.

2 Q You didn't participate in that?

3 A No, sir.

4 RE CROSS EXAMINATION

5 BY MR. STIDHAM:

6 Q Looking at the elevations, Officer Ridge, this side of the
7 creek or stream -- what direction is that?

8 A This would be north. That direction would be east.

9 Q And so the side of the stream where the truck wash is and
10 the pond would be the west side?

11 A Yes, sir.

12 Q It is also west --

13 A And north.

14 Q Northwest?

15 A Yes, sir.

16 Q Which bank -- if you're standing at the reference tree
17 where the three trees are grown together -- which bank on the
18 stream is higher, the east bank or the west bank?

19 A You pointed at this tree as being the three trees. That is
20 the single tree at the top of the high bank. This is where the
21 three trees are. So which position would you rather --

22 Q Let's go from this reference tree here.

23 A Yes, sir.

24 Q If you're standing there beside that tree and you look
25 across to the east side of the stream, is the bank on the east

1 side higher or where you're standing higher?

2 A I don't understand exactly what you're saying. The high
3 bank would be the level -- the normal level of the ground, and
4 it is going to be the same on both sides. There is a shelf on
5 the east bank, and you would be looking at -- this high bank on
6 the west side you're looking to the east. You're looking at a
7 shelf that's low.

8 Q I understand there's several different levels. The diagram
9 shows the flow elevation 207 point 5 and the shelf elevation is
10 210, and the high bank elevation -- I assume would be -- the
11 highest point on this side of the stream is 215?

12 A No, sir. It is not the highest point. That is what the
13 engineer calls the high bank is the level of the ground on both
14 sides of that point. It's the level ground. It is not the
15 heaps of dirt that were used in order to dredge that ditch out.

16 (WITNESS EXCUSED)

17 SHANE GRIFFIN

18 having been first duly sworn to speak the truth, the whole truth
19 and nothing but the truth, then testified as follows:

20 DIRECT EXAMINATION

21 BY MR. FOGLEMAN:

22 Q Will you please state your name and occupation?

23 A Shane Griffin, narcotics detective, West Memphis Police
24 Department.

25 Q I want to direct your attention to May 6, 1993. On that

1 date were you at that time also assigned to the narcotics unit?

2 A Yes, sir, I was.

3 Q Were you called upon to play some part in the search for
4 Michael Moore, Steve Branch and Chris Byers?

5 A Yes, sir, I was.

6 Q When did you become involved in this search?

7 A I usually come to work around eight o'clock in the morning.
8 They notified me on the radio that there were three young men
9 missing. I started helping look for the boys.

10 Q Were other narcotics officers looking, too?

11 A There were several of us.

12 Q Where were you assigned to look?

13 A There was a field north of the interstate, north of 55 and
14 40, that I was in or that I went and looked in initially.

15 Q If you could look at Exhibit 101 and tell us if that area
16 is shown on there?

17 A It is this field right here and -- the trees and stuff like
18 this. Somebody called on the radio and said there was a report
19 that they might have been seen over in this area. It is a huge
20 wooded area, lot of mud and water, so it took a lot of time.

21 Q Were you alone or with others?

22 A I started out alone. There were others riding three
23 wheelers. Farther north there is a huge field out in that area.
24 They were checking the field when I was in the woods.

25 Q About how long did you spend searching in that area?

1 A In that area approximately a couple of hours.

2 Q Where did you go after that?

3 A After that area, we got called in and we had a search
4 warrant we had to execute.

5 Q That was related to your narcotics business?

6 A Yes, sir.

7 Q How long did that take to do?

8 A 30, 45 minutes.

9 Q After you did that, where did you go?

10 A Just as we were finishing up, that's when Inspector
11 Gitchell called my captain on the radio and advised that they
12 had been found.

13 Q Then where did you go?

14 A At that time we were called to the scene to assist.

15 Q I want to show you what has been marked for identification
16 as State's Exhibits 56, 57 and 58 and ask if you can identify
17 those?

18 A (EXAMINING) Yes, sir, I can.

19 Q Do those fairly and accurately portray the scene as it
20 appeared to you that day?

21 A Yes, sir.

22 MR. FOGLEMAN: Your Honor, we would offer State's
23 Exhibits 56, 57 and 58.

24 MR. STIDHAM: No objection.

25 THE COURT: They may be received without

1 objection.

2 (STATE'S EXHIBITS 56, 57 AND 58 ARE RECEIVED IN
3 EVIDENCE)

4 BY MR. FOGLEMAN:

5 Q Would you step down and explain the photographs to the
6 jury?

7 A In picture 58 we have a pipeline that runs across the Ten
8 Mile Bayou, right here. Just north of the area here is the
9 Robin Hood area. On this pipeline right here this is the east
10 side. As we were looking, these were the bikes that were
11 reported that the boys were riding that day. We found the bikes
12 right here on the east side of the pipe about midways in the
13 pipe, both of them right there close to each other.

14 Q What was the level of the water in relation to the pipe?

15 A The water was probably about three or four foot underneath
16 the pipe.

17 Q At that time did you -- after the bikes were removed, did
18 you take charge of the bikes?

19 A Yes, sir, I carried one and I don't recall who carried the
20 other one and received them into evidence.

21 Q I want to show you -- let's do it on the big one. Look at
22 State's Exhibit 101 and point to the jury the area where the
23 bikes were found.

24 A This is the pipe. This area right here.

25 Q Take my pen and circle that area and put your initials

1 there.

2 A (MARKING)

3 Q Detective, I want to show you State's Exhibit 6 and 4. Do
4 you recognize these?

5 A Yes, sir.

6 Q What do you recognize them to be?

7 A Those are the bikes that I pulled out of the bayou.

8 Q Did you also participate in doing some measurements for a
9 crime scene diagram?

10 A Yes.

11 Q If you could look at State's Exhibit 13 and point out the
12 areas that you measured and what those distances were and take
13 this pen again and write on there the distances?

14 A Myself and Detective Durham took measurements from the area
15 from where the victim's bodies were found. The trees on the
16 east side and the tree on the west side of the bank were our
17 reference points that we used to make the measurements from.

18 The first body was found 14 foot 7 inches southeast of the
19 tree or southwest of the tree on the east side of the bank and
20 10 foot 6 inches southeast of the tree on the west side of the
21 bank.

22 Victim two was found straight down the ditch area 27 feet
23 south of victim one.

24 Victim three was found 32 foot south of victim one in the
25 ditch bank.

1 (WITNESS EXCUSED)

2 THE COURT: We are going to take an early recess
3 with the usual admonition not to discuss the case with
4 anyone, and it is particularly important at this point
5 that you not read newspaper accounts, watch the TV
6 accounts or listen to radio accounts or let anybody
7 discuss the media coverage of the case with you or in
8 your presence. It doesn't mean that you can't watch
9 your favorite TV program and you can watch the news
10 except when it relates to this case. And I think all
11 of you understand the need and importance of that.
12 You need to have your mind made up by the evidence
13 that you hear in court and not from outside
14 influences.

15 With that reminder, you're free to go until in
16 the morning at 9:30.

17 CORNING, ARKANSAS, JANUARY 27, 1994, AT 9:30 A.M.

18 (THE FOLLOWING CONFERENCE WAS HELD IN CHAMBERS)

19 THE COURT: Let the record reflect that this is a
20 hearing out of the presence of the jury.

21 MR. DAVIS: In regard to Michael Moore there's
22 photographs -- the State intends to offer photographs
23 59A, 62A, 60A, 61A, 64A, 63A, 71A, 70A, 69A, 68A, 67A,
24 72A, 73A, 65A and 66A.

25 THE COURT: Let Doctor Peretti look at those