

1 and you're free to go until in the morning at nine-
2 thirty.

3 (ADJOURNMENT.)

4 CORNING, ARKANSAS, FEBRUARY 4, 1994, AT 9:30 A. M.

5 (JURY ENTERING JURY ROOM AT 9:30 A.M.)

6 (JURY ENTERING COURTROOM AT 12:00 P. M.)

7 THE COURT: Alright, ladies and gentlemen, have you
8 arrived at a verdict?

9 FOREPERSON: Yes.

10 THE COURT: If you would hand it to the bailiff,
11 please, or the Sheriff, please.

12 FOREPERSON: (COMPLYING.)

13 THE COURT: (EXAMINING.) Alright, ladies and
14 gentlemen, your verdicts are in good form and will be
15 accepted by the Court and I'll announce your verdict in
16 just a second.

17 Alright, ladies and gentlemen, I -- in the audience
18 -- I am acutely aware that your feelings are on edge,
19 that there is a great deal of emotion involved, and I
20 **certainly** can understand that, and everyone that
21 **participates** here can. But the Court cannot tolerate and
22 **will not** tolerate any verbal outburst, any display of
23 emotion whatsoever. So you're cautioned and warned as I
24 read the verdicts that you are not to show any outburst,
25 any emotion, or any display, and I recognize that that's

1 difficult, and that's why I'm warning you in advance.

2 The verdicts read as follows:

3 "We, the jury find Jessie Lloyd Misskelley, Junior
4 guilty of first degree murder in the death of Michael
5 Moore." Signed by T. J. Williams, foreman.

6 Is that your unanimous verdict, ladies and
7 gentlemen? All twelve of your agree?

8 JURORS: Yes.

9 THE COURT: Gentlemen, do you want the jury to be
10 polled on that verdict?

11 MR. STIDHAM: Yes, your Honor.

12 THE COURT: Alright, ladies and gentlemen, we're
13 going to go through a procedure called polling the jury
14 which simply means that when your name is called, if this
15 is your verdict answer "yes."

16 While the Clerk's getting the jury list, I'm going
17 to read your other verdicts.

18 "We, the jury find Jessie Lloyd Misskelley, Junior
19 guilty of second degree murder in the death of Stevie
20 Branch."

21 "We, the jury find Jessie Lloyd Misskelley, Junior
22 guilty of second degree murder in the death of Chris
23 Byers."

24 Again, signed by T. J. Williams, foreman.

25 Are those verdicts your unanimous verdict? That is,

1 all twelve of you agree upon each finding?

2 JURORS: Yes.

3 THE COURT: Alright, and in just a moment when the
4 Clerk returns with the jury list I'll ask her to call
5 your name and if these verdicts -- all three of them
6 reflect your individual findings -- then you should
7 answer "yes" as your name is called.

8 And while the Clerk is bringing the jury list I
9 might explain to you that your findings which the Court
10 has accepted will require you to return to the jury room
11 and consider the punishment. Before we do that, food has
12 been ordered and it should be here for you and I'm going
13 to ask that you take a break for lunch, take whatever
14 time you need to rest and enjoy the food that's being
15 provided. It won't be much. And after that then we'll
16 reconvene and I'll give you further instructions and
17 possibly if the lawyers care to there may be brief
18 arguments or brief presentation of additional facts.
19 That may not be necessary. It depends upon my discussion
20 with the lawyers.

21 I'm going to let the Clerk poll the jury at this
22 time. So if these represent your individual verdicts,
23 please answer yes as your name is called.

24 THE CLERK: Carla Price.

25 MS. PRICE: Yes.

1 THE CLERK: Steven Green.
2 MR. GREEN: Yes.
3 THE CLERK: James Rainwater.
4 MR. RAINWATER: Yes.
5 THE CLERK: Teresa Burgess.
6 MS. BURGESS: Yes.
7 THE CLERK: Ronnie Smith.
8 MR. SMITH Yes.
9 THE CLERK: Lloyd Champion.
10 MR. CHAMPION: Yes.
11 THE CLERK: Margie Woods.
12 MS. WOODS: Yes.
13 THE CLERK: Donna Ludena Moore.
14 MS. MOORE: Yes.
15 THE CLERK: Janet Luter.
16 MS. LUTER: Yes.
17 THE CLERK: April Lunsford.
18 MS. LUNSFORD: Yes.
19 THE CLERK: Aubrey Dicus.
20 MR. DICUS: Yes.
21 THE CLERK: T. J. Williams.
22 MR. WILLIAMS: Yes.
23 THE COURT: Alright, ladies and gentlemen, your
24 verdicts will be accepted by the Court as the verdicts in
25 this case and at this time you'll be allowed to recess

1 and I'm going to keep this area back here. You have
2 coffee, cold drinks, and food coming. If you want to go
3 outside in the back to smoke I'm going to provide
4 deputies out in that area. That will be fine.

5 But you may stand in recess for let's say thirty
6 minutes. Will that be sufficient time? Alright, you
7 may stand in recess for thirty minutes.

8 Gentlemen, I need to see the lawyers. Gentlemen,
9 could I see the lawyers at the bench?

10 (RECESS.)

11 (THE FOLLOWING DISCUSSION WAS HAD AT THE BENCH OUT
12 OF THE PRESENCE OF THE JURY.)

13 THE COURT: What I need to know from you all --
14 first of all I don't---

15 MR. STIDHAM: You're over the P. A., your Honor, if
16 you don't want to be. I don't know if you want to be or
17 not.

18 THE COURT: No, I don't really.

19 I guess under our new law you all are entitled to
20 put on aggravation or mitigation. I don't know whether
21 it's really necessary with these findings, but I think
22 that if you want to you're permitted to do so. I'm not
23 sure of the effective date of the new bifurcation---

24 MR. CROW: I though it was effective for crimes that
25 occurred after---

1 THE COURT: After the -- that's what I thought, too,
2 but now -- so I'm not sure that it's even appropriate or
3 applicable.

4 MR. DAVIS: What they're telling us out of the
5 Prosecutor's Coordinator's office is that it's applicable
6 to crimes that are tried after January first of this
7 year.

8 THE COURT: Which means you could do aggravation or
9 mitigation.

10 MR. DAVIS: Right. The biggest thing that -- you
11 know, there is an instruction that they've prepared that
12 instructs the jury on parole eligibility and that sort of
13 thing. I hadn't even given that any thought.

14 THE COURT: Well, that's why -- that's why I took
15 the recess because I haven't either and I haven't even
16 read that material, and I'm sure most of you all haven't.
17 I was on the -- the---

18 MR. STIDHAM: I discussed this matter with several
19 attorneys and it was my understanding that we had the
20 option of opting in or opting out.

21 THE COURT: That's kind of what I thought, too, but
22 I don't know.

23 MR. STIDHAM: And Mr. Crow and I don't feel any need
24 to go into mitigating---

25 MR. CROW: We want to opt out---

1 MR. STIDHAM: ---or aggravating matters since the
2 crimes were committed in May of ninety-three.

3 THE COURT: Do you all want to do a little research
4 on it and call and find out what you want to do and just
5 let me know. Whatever one of you wants to do---

6 By the way, do you all have any verdict forms that
7 fit this situation because I'm not sure you gave me any.

8 MR. CROW: I don't think those can get entered
9 today, your Honor. Quite frankly, I don't think we have
10 one.

11 MR. STIDHAM: Is there a book here? We can get
12 started on it.

13 THE COURT: Well, I need verdict forms, too---

14 MR. CROW: Okay.

15 THE COURT: ---that provide for---

16 MR. CROW: I don't have them prepared.

17 MR. STIDHAM: Let's find a typist and get them done.

18 THE COURT: Just let me instruct that the range of
19 punishment on first degree murder is ten to forty years
20 or life.

21 MR. DAVIS: I want to put on some argument real
22 brief.

23 MR. STIDHAM: I don't want to.

24 MR. CROW: We would object, your Honor.

25 THE COURT: Well, that's why I want you all to find

1 out. I---

2 MR. FOGLEMAN: Well, even if you did -- even if that
3 doesn't apply, you've always got the right to argue
4 punishment.

5 MR. DAVIS: Yeah, and we didn't have the right to
6 until---

7 MR. STIDHAM: Your Honor, we would submit that under
8 the existing law at the time these acts occurred---

9 THE COURT: Well, but I think since it was
10 bifurcated I think you're both entitled to a five or ten
11 minute argument as to what the appropriate punishment is.

12 MR. STIDHAM: But they didn't come back with a
13 verdict of capital murder.

14 THE COURT: I know, but you neither -- neither of
15 you have really argued the law as to punishment in any of
16 these things.

17 MR. CROW: We'll look at the law, your Honor.

18 (RECESS.)

19 THE COURT: Alright, Court will be in session and,
20 ladies and gentlemen, again, I seem to have to be
21 thanking you for your patience. That thirty minutes I
22 indicated to you turned out to be a little better than an
23 hour -- more than that -- and I do appreciate your
24 indulgence on our delays.

25 I might explain to you that the delay was absolutely

1 necessary in order to allow the attorneys an opportunity
2 to discuss whether or not they needed to produce
3 additional testimony or evidence which they would have
4 been entitled to. However, I'm informed -- am I correct,
5 gentlemen -- that each of you just chose to do a brief
6 additional argument and proceed. Is that correct?

7 MR. DAVIS: Yes, your Honor.

8 MR. STIDHAM: Yes, your Honor.

9 THE COURT: And you've consulted with the family
10 members, with your clients, and with anybody that might
11 be appropriate at this time. Have each of you done that?

12 MR. DAVIS: Yes, your Honor.

13 MR. STIDHAM: Yes, your Honor.

14 THE COURT: And you're satisfied that arguments are
15 all that's necessary?

16 MR. STIDHAM: Yes, your Honor.

17 THE COURT: Alright, ladies and gentlemen, you have
18 found Jessie Lloyd Misskelley, Junior guilty of first
19 degree murder in the death of Michael Moore and found him
20 guilty in the -- of second degree murder in the deaths of
21 Stevie Branch and Chris Byers.

22 It's now necessary that you listen to additional
23 arguments of the attorneys, which I hope are confined to
24 about fifteen minutes a side, and then again retire and
25 fix and impose -- fix the sentences for each of these

1 offenses.

2 And you are instructed that the range of punishment
3 for first degree murder is a term of not less than ten
4 years nor more than forty years or life in the Arkansas
5 Department of Correction. You are further instructed
6 that the range of punishment for second degree murder is
7 a term of not less than five years nor more than twenty
8 years in the Arkansas Department of Correction, or a fine
9 not exceeding Fifteen Thousand Dollars, or both a term of
10 not less than five nor more than twenty years in the
11 Arkansas Department of Correction and a fine not
12 exceeding Fifteen Thousand Dollars.

13 After the lawyers do their additional arguments,
14 then I will read the verdict forms that you'll be asked
15 to consider and complete.

16 Alright, gentlemen, you may -- how much time do you
17 all want -- is fifteen minutes cutting you too close?

18 MR. DAVIS: No, your Honor.

19 THE COURT: Do you want to split -- are you going to
20 split your arguments?

21 MR. DAVIS: Yes, your Honor.

22 THE COURT: Okay.

23 MR. DAVIS: Ladies and gentlemen, and I'm saying
24 this with all sincerity, I know what a difficult decision
25 you all had to make. This case is very emotionally

1 draining for anybody who is a party to it. Whether it's
2 the victims' family, whether it's a juror, whether it's
3 the Court Reporter -- anybody who has to view the
4 photographs, who has to listen to this testimony, it is a
5 gut wrenching experience. And you all the time hear
6 people criticize the job that jurors do, but I want to
7 tell you that we thank you for being willing and able to
8 go through this process and to do your civic duty and
9 serving on a jury, listening to the evidence, and
10 rendering a decision as the law requires.

11 Now, you have to determine what is the appropriate
12 punishment within the range allowed by the law that fits
13 the crime that you found that this defendant committed.
14 In the first count you will have the option in first
15 degree murder for the death of Michael Moore -- the
16 ranges -- you'll will be given a verdict form that shows
17 ten to forty years or life. And you can fill that form
18 in with anything from ten to forty years or you can put
19 life in prison as the appropriate punishment for what
20 this defendant did.

21 When you make that determination and you determine
22 what is appropriate for the crime he's committed, I'll
23 just ask that you think back again and I know it's hard,
24 but again, fitting the punishment to the crime. You have
25 found that he purposely took the life -- he was an

1 accomplice -- took the life of an eight-year-old boy.
2 That -- and remember the evidence was that the beatings
3 had already started. Damien had already started to hit
4 the one boy when Michael Moore took off. And but for the
5 action of that defendant who sits right there, Michael
6 Moore would be alive today. And he brought him back to
7 his ultimate death. The death of an eight-year-old boy.

8 And I put to you that appropriate punishment for
9 someone who does that -- to take the life of an innocent
10 eight-year-old -- under the circumstances that we know by
11 the physical evidence what happened to him -- that that
12 rates a life sentence. I can't think of a case that
13 could be more appropriate to get the maximum sentence in
14 the circumstances surrounding this.

15 The other two charges which are Class B felonies
16 that you found the defendant guilty of second degree
17 murder carried five to twenty year sentences. Anywhere
18 within that range -- and there's also an option of a
19 fine. Frankly, in this case with the taking of two lives
20 I don't think a fine is even an appropriate consideration
21 but that's up to you.

22 In regard to those two boys just remember in finding
23 this defendant guilty you had to determine that he went
24 out there with the intent to inflict serious physical
25 injury on those two boys. That he acted -- he or an

1 accomplice acted and think back as to what injuries those
2 individuals suffered. And I know it's something that as
3 soon as you leave this courtroom you'll want to cut out
4 of your memory as much as possible for the rest of your
5 life, and I do, too. But when determining what is
6 appropriate punishment within that range of five to
7 twenty years, think for a little bit about the agony and
8 the torture that those boys went through that afternoon,
9 and that man right there, ladies and gentlemen, he's a
10 man. He's eighteen years old. You found that he did it
11 and somebody that put those three little boys through
12 what he was involved in, twenty years is something that
13 is clearly appropriate.

14 I normally don't get up here and say, "If the range
15 is this, I think you should do that." Use your
16 discretion, but in this case I sincerely believe that
17 what happened to those three little boys merits the
18 maximum punishment you can give out on all three
19 offenses. And I ask you, please, to look back over that
20 evidence, think hard, think long, and do what's right and
21 give a punishment that fits this crime -- and fits the
22 three crimes, and give this defendant the maximum
23 sentences on all three counts.

24 In asking that, I do that because of not only what
25 happened to the children, but what happened to their

1 families. And they've been here and you've had a chance
2 to look at that and I don't think it's inappropriate to
3 say when you determine punishment, think about what the
4 effect has been, not only in the taking those three
5 lives, but what impact it's had on the mothers, the
6 fathers, and the other family members of those three
7 boys. When you think about those things and you look at
8 the evidence, I think it will be a clear and easy
9 decision that the maximum punishment -- although it's
10 something that's a heavy responsibility to deal out
11 particularly to somebody who's eighteen years old -- I
12 think it's clearly appropriate and it's something that
13 you can feel that you've done something right in regard
14 to having the courage to give out that type of punishment
15 for this type of crime, but if people can see what the
16 punishment is in this case and say that that fits what
17 this defendant did. Thank you very much.

18 THE COURT: Are you all going to split or are you
19 going to do it all?

20 MR. CROW: Do it all, your Honor.

21 THE COURT: Alright.

22 MR. CROW: Ladies and gentlemen of the jury, your
23 Honor, Mr. Fogleman, Mr. Davis. I want to thank you
24 all, too, for your patience, and your willingness to
25 serve on the jury. It's been a hard three weeks for all

1 of us. I thank you all very much for your willingness to
2 serve, to pay attention, and to be here without y'all,
3 this trial would not have been possible. Obviously from
4 your findings you have found that Jessie was at the
5 scene.

6 When you go back to that jury room I'll ask you to
7 consider a few things. First, please consider what
8 Jessie said in his statement. Please consider what he
9 said he did and what he said he didn't do. Please
10 consider all of the circumstances.

11 I'll also ask you to consider the age of Jessie.
12 The prosecutor talks about him being eighteen. He's
13 eighteen. He was seventeen when the crimes were
14 committed and now he's eighteen. I'll also ask you to
15 consider not only his physical age, but his mental
16 ability. You've heard testimony that Jessie reasons on
17 the level of a six to eight year old. He certainly can
18 function in society to some extent but he does have
19 certainly some type of mental deficiency. Now, his
20 **chronological** age doesn't always tell the whole story. I
21 think each of you know that.

22 I'll also ask you to consider his family background.
23 He had mental problems -- you've heard bits and pieces of
24 his background. You heard some testimony about his
25 mother and father. He was raised by his father and

1 stepmother and the other family history. I ask you to
2 please consider those things.

3 Most importantly though, ladies and gentlemen, I
4 want you to consider what Little Jessie said. I take it
5 you believe his statement. I would ask you to
6 (INAUDIBLE) consider what he himself contends. That he
7 himself contends (INAUDIBLE).

8 As Mr. Davis pointed out, there is a range of
9 punishment. The State of Arkansas has decided that when
10 a person has committed the crime that you have found that
11 Jessie committed he must be punished for murder in the
12 first degree -- the range of punishment is ten to forty
13 or life. I'll please ask you to consider all of them.
14 I'm not going to stand here and say it should be one or
15 it should be another. I would ask you to please consider
16 all of them.

17 Murder in the second degree, ladies and gentlemen,
18 the range of punishment is five to twenty. I would ask
19 you to consider the full range of punishment. When you
20 are considering those things again, think back to the
21 **statement**. Think about what Jessie did and what he
22 **didn't do**. To go in and not pay attention to those
23 details, (INAUDIBLE). It's a difficult situation for us
24 all and a hard duty. Please review the tape and consider
25 what did and didn't happen. Consider what Jessie did and

1 what he didn't do. I will trust you to come back with
2 the proper verdict. Thank you.

3 MR. FOGLEMAN: Was there a circumstantial evidence
4 instruction?

5 THE COURT: No. There should have been but I don't
6 remember giving it.

7 MR. FOGLEMAN: Ladies and gentlemen---

8 THE COURT: Approach the bench.

9 (THE FOLLOWING DISCUSSION WAS HELD AT THE BENCH OUT
10 OF THE HEARING OF THE JURY.)

11 THE COURT: I didn't give it, but I don't know
12 whether it would be inappropriate at this time. Is it
13 circumstantial evidence? I probably should have given
14 it but nobody requested it.

15 MR. DAVIS: We would request it if it was not given.

16 THE COURT: Did I give it? Do you remember?

17 MR. DAVIS: No, you did not, your Honor. I know.

18 THE COURT: Well, in this case it sure should have
19 been given.

20 MR. DAVIS: We had it prepared.

21 MR. CROW: They didn't offer it.

22 THE COURT: I didn't read it. Alright, I think it's
23 probably appropriate at this time for me to read it.

24 MR. CROW: I would object since it wasn't in the
25 original, your Honor---

1 MR. STIDHAM: We're talking about punishment.

2 MR. FOGLEMAN: Your Honor, part of their argument is
3 what he did or didn't do. They're now arguing what he
4 did or didn't do.

5 MR. STIDHAM: We've maintained throughout the course
6 of the trial that he didn't do anything. Now we're in
7 the punishment phase---

8 THE COURT: Well, they've heard the facts already
9 and now -- but they're going to have to consider the
10 facts again. This should have been read initially. I
11 didn't realize I hadn't done it.

12 If you're objecting to it though, I won't give it.

13 MR. STIDHAM: Well, we object, your Honor.

14 THE COURT: Alright.

15 (RETURN TO OPEN COURT.)

16 MR. DAVIS: It's almost over for you all and in
17 about a month it'll be over for me. The Moores, and the
18 Branches, and the Byers, it's not ever going to be over.
19 What this is talking about is responsibility. You heard
20 the defendant's own expert say, Warren Holmes, that it is
21 common, it's usual for a person who confesses to a crime
22 to lessen their involvement. You are not restricted to
23 what this defendant says that he did. You're entitled to
24 look at the evidence -- all of the evidence -- the number
25 of weapons, all of the circumstances, the type of knots,

1 and decide that he was more involved than what he said he
2 was.

3 If we did not have -- if we didn't have a
4 confession, let's say, we didn't have a confession,
5 instead all you had -- all you had was a fingerprint of
6 this defendant on Michael Moore's arm. Would you say,
7 "Well, oh my gosh, we don't know exactly what he did."?
8 No. I would submit to you that you would be entitled
9 from all of the evidence in the case, every bit of the
10 evidence, to look at the evidence and draw your -- a
11 reasonable conclusion from that evidence as to what this
12 defendant did.

13 Now, we know -- we know from this defendant's own
14 mouth in the interview before he admitted being there
15 that he had a phone call the day before from Jason
16 Baldwin saying that they were going -- their intention
17 was to go and beat up some boys. He went there knowing
18 that was the intention. They went there and they did it.

19 He referred to his -- his -- his borderline I. Q.
20 He's not retarded. He is not retarded. You've got the
21 picture of the real defendant. That's not something that
22 we're showing in trying to make you made at him or angry
23 at him or prejudice you against him. It's to show you
24 that what you see is not necessarily what you get when
25 you look at this defendant. It's not necessarily what

1 you get. What you see is not -- you can't always take
2 everything at face value and the expert testified that
3 this defendant -- how did he function? Not as for as
4 book learning, but how did he function? Do you remember
5 the testimony? He says that he functions on an average
6 level -- his performance I. Q. -- how he functions.
7 Apart from verbal things and book learning things, he
8 functions on an average level.

9 When you go back there and you consider the
10 punishment, there are a number of things to consider.
11 The punishment that was served to deter this defendant
12 from doing something like this again. And even more
13 importantly, what effect will your verdict have on other
14 people who might engage in similar type behavior? Is it
15 going to be a message that "Well, it's a bad thing, but
16 it's not so bad?" I don't believe you all could find
17 that way.

18 In this case Michael Moore, he won't ever go to
19 Scouts again. Stevie Branch and Chris Byers and Michael,
20 they won't play ball. They won't play basketball. They
21 won't play baseball. They won't grow up. Their lives
22 are gone. But your verdict -- it can't -- it can't bring
23 them back. Nothing you do can bring them back and
24 really, honestly, when you look at it, nothing you do is
25 going to make the families feel all that much better. It

1 might make them feel good for a minute if you gave him
2 the maximum, but it's not to -- in the long time, it's
3 not going to make that much difference. But what can
4 your verdict do? It can stop this kind of junk. It can
5 stop these kids doing these stupid, crazy things and it
6 can put an end to it. And that's what we're asking you
7 to do.

8 THE COURT: Alright, ladies and gentlemen, you may
9 now retire to the jury room to consider your verdicts
10 with regard to punishment and I'll read those verdict
11 forms for you. The first reads:

12 "We, the jury having found Jessie Lloyd Misskelley,
13 Junior guilty of first degree murder in the death of
14 Michael Moore fix his sentence at a term of" -- with a
15 blank that you would complete -- "not less than ten nor
16 more than forty years or life in the Arkansas Department
17 of Correction" with a signature space for the foreman.

18 You must unanimously agree upon the punishment that
19 you complete in the blank. And whatever your unanimous
20 **finding is** should be reflected in the blank provided and
21 **then the** foreman would sign. The next verdict form reads
22 **as follows:**

23 "We, the jury having found Jessie Lloyd Misskelley,
24 Junior guilty of second degree murder in the death of
25 Steven Branch fix his sentence at" -- you have three

1 alternatives, A, B, and C -- "A, a term of" -- a blank --
2 "not less than five nor more than twenty years in the
3 Arkansas Department of Correction" or "B, a fine of" --
4 with an appropriate blank -- "not exceeding Fifteen
5 Thousand Dollars" or "C, both a term of not less than
6 five nor more than twenty years in the Arkansas
7 Department of Correction and a fine not exceeding Fifteen
8 Thousand Dollars" -- again, with the appropriate blank.

9 In order to fix any punishment your finding must be
10 unanimous and you would fill in the appropriate blanks
11 that represent your finding and the foreman would sign.
12 The third verdict form reads identically to the last with
13 the exception that this is for Count Three in the death
14 of Christopher Byers on the second degree murder charge.

15 So you may now retire and consider your verdicts
16 with respect to punishment.

17 Alright, Court will be in temporary recess.

18 (JURY EXITING COURTROOM AT 2:00 P. M.)

19 (JURY ENTERING COURTROOM AT 2:30 P. M.)

20 **THE COURT:** Alright, ladies and gentlemen, have you
21 arrived at a verdict or verdicts, Mr. Foreman?

22 **FOREMAN:** Yes.

23 **THE COURT:** Alright, if you would hand it to the
24 Sheriff, please -- or hand them to the Sheriff.

25 **FOREMAN:** (COMPLIES.)

1 THE COURT: (EXAMINING.) Alright, your verdicts are
2 in good form and read as follows:

3 "We, the jury having found Jessie Lloyd Misskelley,
4 Junior guilty of first degree murder in the death of
5 Michael Moore fix his sentence at a term of life in the
6 Arkansas Department of Correction." Signed by T. J.
7 Williams, foreman.

8 Is this your unanimous verdict, ladies and
9 gentlemen?

10 JURY: Yes.

11 THE COURT: Count Two. "We, the jury having found
12 Jessie Lloyd Misskelley guilty of second degree murder in
13 the death of Steven Branch fix his sentence at a term of
14 twenty years in the Arkansas Department of Correction."
15 Again, signed by the foreman, T. J. Williams.

16 Is that your unanimous verdict, ladies and
17 gentlemen?

18 JURY: Yes.

19 THE COURT: Alright, verdict form three. "We, the
20 jury having found Jessie Lloyd Misskelley, Junior guilty
21 of second degree murder in the death of Christopher Byers
22 fix his sentence at a term of twenty years in the
23 Arkansas Department of Correction." Signed by T. J.
24 Williams, foreman.

25 Is that your unanimous verdict, ladies and

1 gentlemen?

2 JURY: Yes.

3 THE COURT: Questions, gentlemen?

4 MR. DAVIS: No, sir.

5 MR. STIDHAM: No, sir.

6 THE COURT: Do you want the jury polled?

7 MR. STIDHAM: Yes, your Honor.

8 THE COURT: Alright, again, ladies and gentlemen, if
9 these are your verdicts as your name is called, please
10 answer yes.

11 THE CLERK: Carla Price.

12 MS. PRICE: Yes.

13 THE CLERK: Steven Green.

14 MR. GREEN: Yes.

15 THE CLERK: James Rainwater.

16 MR. RAINWATER: Yes.

17 THE CLERK: Teresa Burgess.

18 MS. BURGESS: Yes.

19 THE CLERK: Ronnie Smith.

20 MR. SMITH: Yes.

21 THE CLERK: Lloyd Champion.

22 MR. CHAMPION: Yes.

23 THE CLERK: Margie Woods.

24 MS. WOODS: Yes.

25 THE CLERK: Donna Ludena Moore.

1 MS. MOORE: Yes.

2 THE CLERK: Janet Luter.

3 MS. LUTER: Yes.

4 THE CLERK: April Lunsford.

5 MS. LUNSFORD: Yes.

6 THE CLERK: Aubrey Dicus.

7 MR. DICUS: Yes.

8 THE CLERK: T. J. Williams.

9 MR. WILLIAMS: Yes.

10 THE COURT: Any other questions, gentlemen?

11 MR. DAVIS: No, your Honor.

12 MR. STIDHAM: No, your Honor.

13 THE COURT: Alright, ladies and gentlemen, with the
14 thanks of the Court for your consideration of this case
15 you will be excused from further attendance and need not
16 report back in the morning at nine-thirty, and for that
17 matter, for the next two years. You'll be exempt from
18 jury duty.

19 I thank you very much for your consideration of a
20 difficult case and one that obviously had ramifications
21 that are not normally found in criminal cases. The
22 attention, the pressure I know you went through, and I
23 certainly appreciate your hard work and dedication. And
24 thank you very much.

25 I have been asked to inquire of you by the media

1 whether or not you want one of your member to be a
2 spokesman, whether or not you choose not to make any
3 statement whatsoever, and I want to point out to you
4 you're not obligated to say anything to anyone about your
5 deliberations. If you all would like to have a minute or
6 two to discuss that before you depart.

7 JUROR: We have discussed it.

8 THE COURT: You have discussed it? Alright, then
9 what is your pleasure in that matter.

10 JUROR: No comment.

11 THE COURT: Alright, then I'll certainly honor that
12 and I would expect everyone else to. And you're not
13 obligated to make any statement to anyone.

14 So with the thanks of the Court, you're free to go
15 and I really appreciate your consideration. If you would
16 like, I can have officers escort you to your cars and
17 you're free to go. I want everybody to remain in the
18 courtroom while the jury departs. Everyone please rise
19 while the jury leaves.

20 (JURY EXITING COURTROOM.)

21 THE COURT: Alright, you may be seated.

22 Alright, Mr. Misskelley, did you hear the jury's
23 finding in the reading of the verdict in your case?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have any legal reason or cause to

1 tell the Court why sentence should not be imposed at this
2 time?

3 THE DEFENDANT: No, sir.

4 THE COURT: You're going to have to -- I heard you,
5 but you need to answer out a little bit louder.

6 THE DEFENDANT: No, sir.

7 THE COURT: Alright. It's my responsibility and
8 duty to tell you that you have a right to appeal your
9 convictions in these cases. You must give notice within
10 the statutory period of time. You have Court appointed
11 counsel that can consult with you and your family in that
12 regard, but you're notified that you do have a right to
13 appeal and you're entitled to a bond on these charges.

14 Do you gentlemen want an appeal bond fixed at this
15 time or do you -- 'cause it starts your time running --
16 or do you want to discuss that with Mr. Misskelley and
17 his family?

18 MR. STIDHAM: We would like to discuss that, your
19 Honor.

20 THE COURT: Alright. Is there anything you want to
21 say before sentence is imposed? You have a right to make
22 any statement you care to at this time.

23 THE DEFENDANT: No, sir.

24 THE COURT: You also have a right to have your
25 attorneys make any comment in your behalf that you want

1 them to. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 MR. STIDHAM: Your Honor, the one comment that we
4 would like to make is we respectfully request the Court
5 to run this concurrently as opposed to consecutively.

6 THE COURT: Alright, well, I understand your
7 statement in that regard and of course, that's a matter
8 that addresses itself to the discretion of the Court and
9 I'll consider that.

10 Now, is there anything else you want to say to the
11 Court, or do you have any questions you want to ask the
12 Court at this time?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you satisfied with the service and
15 advice of your attorneys through this trial?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Alright. Alright, based upon the jury's
18 verdict finding you guilty of first degree murder in the
19 death of Michael Moore, you'll be adjudicated guilty and
20 you'll be sentenced to the Arkansas Department of
21 Corrections for a term of life.

22 In the count involving the death of Steven Branch,
23 the jury having found you guilty of second degree murder,
24 you'll be adjudicated guilty and be sentenced to an
25 additional term of twenty years in the Arkansas

1 Department of Correction.

2 Then in regard to the death of Christopher Byers the
3 jury having found you guilty of second degree murder,
4 you'll be adjudicated guilty of second degree murder and
5 be sentenced to an additional term of twenty years in the
6 Arkansas Department of Corrections.

7 It'll be the finding of the Court that all of those
8 sentences will run consecutively. That is you will
9 receive a life sentence plus forty years, and that will
10 be the judgment of the Court.

11 You'll be remanded to the custody of the Sheriff for
12 immediate transportation to the Department of
13 Corrections.

14 Mr. Sheriff, you'll be directed to forthwith take
15 him to the Arkansas Department of Corrections and
16 delivered to the proper custodian.

17 And that will be the judgment of the Court and this
18 Court will be in recess until February the twenty-second.

19 (ADJOURNMENT.)
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