

1 Davis' and my job to present to you the State's case and
2 we've done that. And now we're about to enter the phase
3 where really the job becomes yours -- the entire job
4 becomes yours.

5 To judge whether or not based solely and exclusively
6 on the evidence that you've got before you whether the
7 State has met its burden of proving this defendant guilty
8 of three counts of capital murder. I submit to you that
9 the State has met its burden of proof. I submit to you
10 that you should go back and deliberate, take your time --
11 this is not something to rush through and listen to those
12 tapes and return a verdict of guilty. Thank you.

13 THE COURT: I'm going to take a recess.

14 Alright, ladies and gentlemen, with -- Sheriff, I
15 want the whole hallway cleared out back there for the
16 jury to use both rest rooms -- have somebody on both
17 doors.

18 (RECESS.)

19 THE COURT: Alright, Court will be in session. You
20 may proceed.

21 MR. STIDHAM: Thank you, your Honor.

22 I'd like to take this opportunity to also thank you
23 for your patience and your ability to listen throughout
24 this long trial. There have been a lot of objections and
25 there have been a lot of approaches to the bench, and I

1 also thank you for that.

2 During the prosecution's closing argument I got a
3 little confused. For a minute there I actually thought
4 Doctor Richard Ofshe was on trial instead of Jessie
5 Misskelley. I think there's a reason for that, ladies
6 and gentlemen of the jury, and I think the reason is
7 clear. The prosecutor spent most of his time talking
8 about our defense, Mr. Holmes and Doctor Ofshe. The
9 reason for that is that they don't have a case against
10 Jessie Lloyd Misskelley, Junior.

11 In order for you to find Jessie Lloyd Misskelley,
12 Junior is guilty of three counts of capital murder you
13 must find him guilty beyond a reasonable doubt. And we
14 talked about that in voir dire, and I want to talk about
15 it again.

16 As we talked about in voir dire, ladies and
17 gentlemen, there are three legally recognized burdens of
18 proof in the law. The first one is by a preponderance of
19 the evidence. That's the lowest standard. The middle
20 **standard** is clear and convincing evidence. That means
21 **you have** to have evidence which is clear and convincing.
22 **And then** there's the top standard, beyond a reasonable
23 doubt. The highest standard recognized in the law. For
24 you to find Jessie Lloyd Misskelley, Junior guilty you
25 must find that the State proved its case beyond a

1 reasonable doubt.

2 Ladies and gentlemen of the jury, I would submit to
3 you that there is a reasonable doubt about the
4 defendant's guilt. In fact we would submit to you that
5 there's many, many reasonable doubts, and that's what I
6 would like to go over with you in closing is these
7 reasonable doubts, and I want to talk to you about each
8 and every one of them.

9 The first area of reasonable doubt is Jessie's
10 stories that he gave the police. What evidence does the
11 State introduce against Jessie in this trial? His
12 statement. That's all they've got. There's nothing
13 else. This wild story that he told the authorities on
14 June the third, nineteen ninety-three. In this story
15 Jessie says that Jason called him at nine P. M. on May
16 the fourth. He also says that Jason Baldwin called him
17 at nine A. M. on May the fifth. That's can't be true.
18 Jessie wasn't home. He spent the night with Josh Darby
19 on May the fourth. He went wrestling at nine A. M. the
20 next morning and that was testified by two witnesses.
21 Josh Darby doesn't have a telephone. How could he have
22 gotten these phone calls?

23 The next reasonable doubt, ladies and gentlemen of
24 the jury, is that the victims were sodomized. Jessie
25 told the police that these little boys were raped.

1 There's no evidence of that. The medical examiner sat
2 right there in that chair, he told you that there was no
3 evidence of physical trauma to those little boys that
4 suggested the fact that they had been sodomized.

5 The next reasonable doubt when Jessie in this story
6 tells the police, "Well, I was up there by the service
7 road when this was happening." Do you remember where the
8 service road is on the diagram of the crime scene? About
9 four hundred fifty feet through dense vegetation. It was
10 impossible -- a witness testified that it's almost
11 impossible to see through there now in January. Imagine
12 what it would be like in May when you have all of that
13 forest. It's not possible.

14 Probably the biggest reasonable doubt we've heard in
15 the course of this trial is that Jessie says the murders
16 took place at noon. Everyone agreed that that's not
17 true. It can't be true. The victims were in school all
18 day. Jason Baldwin was in school that day and Jessie was
19 roofing until past noon. So we know that this could not
20 have happened.

21 The next reasonable doubt, Jessie says that he went
22 to West Memphis with Damien and Jason at nine A. M. on
23 May the fifth. Again, we know that's not the case.
24 Jason was in school all day and Jessie was roofing with
25 Rickey Deese and Josh Darby. We know that that's not

1 true. It can't be true.

2 Another one of the major major reasonable doubts is
3 a brown rope. The victims were not tied up with a brown
4 rope. Jessie tells Gitchell they were tied up with a
5 brown rope. It just didn't happen. Everyone knows that
6 the victims were tied with shoe strings.

7 Another reasonable doubt, ladies and gentlemen of
8 the jury, Jessie says that Damien choked Chris Byers with
9 a big old stick. The medical examiner says that didn't
10 happen. No evidence on the body to suggest that Chris
11 Byers was choked or that any of the victims were choked.
12 It just didn't happen.

13 The prosecution wanted you to forget about these
14 major, major impossibilities. They want you to believe
15 only the things that Jessie may have gotten right. They
16 want you to forget about all of these big, big reasonable
17 doubts. That's why we're here today, ladies and
18 gentlemen of the jury, to talk about reasonable doubt.

19 The next area of reasonable doubt deals with
20 **Jessie's** alibi. The prosecution would have you believe
21 **that Jessie** somehow has a mystical magical time machine
22 **which** enables him to be in two places at one time, but he
23 can't do that. We can't do that. Nobody can do that.
24 He can't be in two places at one time.

25 May the fifth, nineteen ninety-three, the

1 prosecution would have you believe that that's just like
2 any other day. No special reason to remember what you
3 were doing that day. Well, that may be true for the
4 people who did live in West Memphis -- excuse me -- for
5 people who didn't live in West Memphis. But the people
6 who did, people who lived in Highland Trailer Park and
7 other parts of the city, May the fifth was an important
8 day. There are several reasons why it was an important
9 day. And before we talk about this I will ask each and
10 every one of you to think about how is it that you
11 remember this. How do you remember events and dates?
12 You go back and look at calendars, you look at birthdays,
13 you look at events and you go back and try to tie those
14 times references together. That's common sense.

15 The Dollar incident happened on May the fifth.
16 Everyone in Highland Trailer Park was outside looking at
17 the incident. Cody Rameriz was pulled off the bicycle by
18 the head of his hair. Everyone was out there and seen
19 that. The police were out there. The police testified
20 that they were there. The police log shows that they
21 were there. Everyone was outside. Kevin Johnson was on
22 the search and rescue squad, he was at a meeting that
23 night. He remember that night. He testified that he
24 remembered that night. He told you that he was supposed
25 to go wrestling with his brother. He invited his

1 brother, Keith Johnson, to go that night. But he went to
2 a search and rescue meeting and at that search and rescue
3 meeting he heard about the boys missing. He didn't know
4 whether they would have to go out and look that night.
5 He didn't go wrestling. Keith Johnson only went
6 wrestling that one night, and that's the night that his
7 brother was at a search and rescue meeting.

8 Also, ladies and gentlemen of the jury, Jessie,
9 Senior was at D. W. I. School that night. You've seen
10 the receipt evidencing the fact that he was there.
11 You've seen the roll sheet where he was present at the
12 meeting.

13 Also, the boys were missing that night. Everyone in
14 town knew that especially the folks who were on the
15 search and rescue squad. The next day the bodies were
16 discovered. And that was on not only the local news, but
17 the national news covered that. Everybody in West
18 Memphis can remember that day. Everybody, not just
19 people in Highland Trailer Park. Not just people who
20 wear yellow ribbons. Everyone can remember that.

21 May the fifth, nineteen ninety-three, I've prepared
22 a time line to demonstrate to you the aspects of Jessie's
23 alibi all day. At nine A. M. Jessie is roofing with Josh
24 Darby and Ricky Deese. At one P. M. Ricky Deese drops
25 Jessie off at home. He was in the trailer park at one

1 o'clock -- not in Robin Hood Hills witnessing three boys
2 getting killed at noon. At two-thirty P. M. Jessie began
3 baby-sitting for Stephanie Dollar. Three-thirty P. M.
4 Susie Brewer comes home, goes in the trailer park, she
5 joins Jessie at Stephanie's and helps him baby-sit the
6 children. Four to six P. M. many of the people that
7 testified during the course of the trial told you that
8 they seen Jessie between the hours of four and six P. M.
9 in Highland Trailer Park.

10 Six-fifteen P. M. Jim McNease has to close down
11 Jim's Repair Shop because Jessie, Senior is at D. W. I.
12 School. He testified that at six o'clock -- about that
13 time -- he closed the shop. He went home and at six-
14 fifteen P. M. Jim McNease seen Little Jessie and Dennis
15 Carter out in the street. He talked to them and they
16 talked about wrestling.

17 Six-thirty to seven P. M. again is the Dollar
18 incident. There's lots of people outside watching and
19 trying to figure out what was happening. The police were
20 there. Everybody is outside wondering what's going on.

21 Louis Hoggard the trucker, and you've seen his truck
22 log, he told you when he was in town -- May the fifth.
23 He sees Jessie. Carl Ashland, he sees Jessie. Susie
24 Brewer, Stephanie Dollar, Christy Jones, Dennis Carter --
25 these people are with Jessie at Highland Trailer Park.

1 Seven-fifteen P. M. Jessie, Senior comes home from
2 D. W. I. School, the police are leaving the trailer park,
3 he's afraid because he's driving on suspended license.
4 That's how he can remember. He quickly goes home so he
5 doesn't get caught by the police for driving on suspended
6 license. He sees Jessie, Junior at the trailer.

7 At about seven-thirty P. M. Little Jessie Misskelley
8 leaves for Dyess with these individuals -- Fred Revelle
9 who testified, Will Cox who didn't testify, Barbara
10 Jones, Dennis Carter, and Johnny Hamilton, whom we were
11 able to find right before the trial in which the defense
12 started presenting its case. All of these people, ladies
13 and gentlemen of the jury, testified to you under oath
14 that Jessie Misskelley was with them in another county
15 about forty miles away from West Memphis on May the fifth
16 at the time that these little boys are being murdered.

17 Eight P. M. Jessie and the other wrestlers meet
18 Keith Johnson at the Exxon station at the junction of
19 Highway Sixty-three and Interstate Fifty-five. They pick
20 up Keith. They go on to Dyess, and it was about eleven-
21 thirty Jessie and the others arrived back at Highland
22 Trailer Park. From eleven-thirty to midnight Little
23 Jessie spends time with Robert Jones and Jennifer Roberts
24 at their trailer. That accounts for him the entire day
25 -- the entire day.

1 The next area of reasonable doubt, ladies and
2 gentlemen of the jury, is a very, very important one. No
3 physical evidence linking Mr. Misskelley to the crime
4 scene or to the homicide. None -- not just a little --
5 not even a little bit -- none. There's no footprints of
6 the blue Adidas shoes or any other shoes they looked at.
7 No fingerprints. No hairs. Lisa Sakevicius says,
8 "That's the best I can do and I'm sorry." She testified
9 that she had examined hundreds of hairs, none of which
10 matched Little Jessie Misskelley. No fibers. No fibers
11 matched Mr. Misskelley. None -- no physical evidence.

12 Well, one item of physical evidence which the
13 prosecution would have you just bypass and ask you to not
14 consider it. It's not very important and it's not
15 logical. I would submit to you, ladies and gentlemen of
16 the jury, that when three little boys are murdered at
17 approximately the same time that a gentleman stumbles
18 into a fast food restaurant minutes from the crime scene
19 covered with blood and covered with mud, and the police
20 aren't even interested enough to come in the store and
21 check it out until the next day, to take blood samples.
22 Were the blood samples ever submitted to the crime lab?
23 Were the sun glasses ever submitted to the crime lab?
24 Who knows? I call that a reasonable doubt.

25 On Christopher Byers the boy who was mutilated, some

1 Negroid hair was found on the sheet covering his body.
2 Is that a coincidence as the prosecution would have you
3 believe? I don't think so. I call it a reasonable
4 doubt.

5 The next area of reasonable doubt, ladies and
6 gentlemen of the jury, is this cult business. Officer
7 Ridge testified that he couldn't confirm any of the
8 people on Jessie's list of cult members. None.
9 Detective Ridge also testified that there were no cult
10 artifacts at the crime scene. He said there were no cult
11 artifacts at Turrell Switch which this alleged cult
12 meeting was supposedly taking place. There's no evidence
13 that this is a cult homicide. No evidence.

14 The next area of reasonable doubt, ladies and
15 gentlemen of the jury, is the fact that Little Jessie
16 Misskelley has a mental handicap. He has a low I. Q. He
17 has low self-esteem. He's very suggestible. He's co-
18 dependent. He feels the need to conform to authority
19 figures. And that's why some of the most compelling
20 testimony that came out of this witness chair was from
21 two expert witnesses -- Mr. Holmes and Doctor Ofshe. The
22 most compelling testimony came from those two witnesses
23 about these very ideas and more specifically about the
24 profile of one who falsely confesses to something they
25 didn't do.

1 Mr. Holmes who doesn't have thirteen years of
2 experience -- thirty-nine years of experience with the
3 Miami Police Department, lecturing to the F. B. I., the
4 C. I. A. -- this gentleman worked John F. Kennedy's
5 assassination, Martin Luther King's assassination, and
6 Watergate, the Boston Strangler case, the Hampton case in
7 Louisiana -- thirty-nine years of experience -- and what
8 does he tell you? The profile of a false confessor is
9 someone with a low I. Q. and a weak personality. He also
10 told you that there were several problems with Jessie's
11 statements. A, no corroboration. Jessie Misskelley
12 didn't tell the police anything that they didn't already
13 know. Nothing. There's no narrative in his statement.
14 The prosecutor has asked you to go back to the jury room
15 and listen to the tape. I want you to do that, too. And
16 when you're listening to the tape, ask yourself this
17 question, "Does this sound like a kid who is telling me
18 about something that he's seen or is he telling me
19 something about that he's made up or that was suggested
20 to him?" There's no narrative in this statement. Every
21 time the police officers asked him to elaborate about a
22 detail he says, "Well, they were doing this and stuff.
23 And they were doing this and stuff. Then we did this and
24 stuff." Does that sound like someone who witnessed three
25 homicides -- telling about it? There's no narrative.

1 Mr. Holmes also testified that Mr. Misskelley was
2 wrong on too many points, and we talked about those
3 earlier. Mr. Holmes concentrated on two of the big ones
4 -- time and ligature. Two very, very important things
5 about the crime that Jessie Misskelley got wrong.

6 Mr. Holmes also testified that the officers were
7 very leading and very suggestive. They led him through
8 this entire taped statement. And, ladies and gentlemen
9 of the jury, we don't know what happened before they
10 turned the tape recorder on. They didn't videotape it.
11 The officer didn't take notes on all of the questions and
12 testified to that. They even testified they couldn't
13 remember some of the things they asked him. How do we
14 know what really happened?

15 And that's where we get to Doctor Ofshe. Doctor
16 Ofshe is a doctor. He's not a medical doctor, but he is
17 a doctor, and I would submit to you, ladies and
18 gentlemen, that this testimony is riveting. His
19 testimony was very very helpful in trying to establish
20 what happened in this interrogation. Doctor Ofshe also
21 testified that the profile of a false confessor is
22 someone with a low I. Q. and someone who has low self-
23 esteem. His expert opinion, ladies and gentlemen of the
24 jury, this is what he told you that the West Memphis
25 Police Department used coercive psychological tactics

1 to get a statement from Jessie Misskelley. The police
2 were suggestive and they led Jessie through the entire
3 statement. When you listen to the statement, when you
4 read about the statement, think again about the
5 narrative, and think about the way these officers led him
6 through the entire statement. The way they suggested
7 things to him through the entire statement.

8 Ladies and gentlemen of the jury, what I'm about to
9 tell you is the most important thing that you will hear
10 throughout the course of this trial. A very learned
11 judge in the State of Florida once said in one of our
12 opinions, he said, "The killing of one human being by
13 another is a most heinous act only excluded by the
14 killing of an innocent man by the state." Ladies and
15 gentlemen of the jury, my client, Little Jessie
16 Misskelley, is an innocent man. He's innocent and I will
17 ask you to go back to that jury room and bring back a
18 verdict that renders justice -- truth and justice -- and
19 I would ask you to bring back a verdict that you can live
20 with for the rest of your life. Thank you.

21 THE COURT: Do you want to take a stretch break?
22 About two minutes in place.

23 (RECESS.)

24 THE COURT: Alright, Court will be in session.
25 Alright, you may proceed.