

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