

1 THE COURT: If it is Jessie Misskelley's
2 apartment, I'm going to let her describe it. If it is
3 the other two boys, let's let it go.

4 (RETURN TO OPEN COURT)

5 (WITNESS EXCUSED)

6 KERMIT CHANNEL

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 Kermit Channel. I'm a forensic serologist for the Arkansas
13 State Crime Lab.

14 Q Would you state your education, training, background and
15 experience to qualify you as a serologist at the Crime Lab?

16 A I received my bachelor's degree in biology and a minor in
17 chemistry from Elon College in North Carolina and I also
18 received forensic serology training from the FBI academy at
19 Quantico, Virginia.

20 MR. FOGLEMAN: Your Honor, we would submit Mr.
21 Channel as an expert in the field of serology.

22 MR. STIDHAM: No objection, your Honor.

23 THE COURT: You may proceed.

24 BY MR. FOGLEMAN:

25 Q Mr. Channel, in the course of your duties with the State

1 Crime Lab did you examine some items submitted from the West
2 Memphis Police Department in the case of the victims, Michael
3 Moore, Steve Branch and Chris Byers?

4 A Yes, I did.

5 Q As a part of that, did you receive from Lisa Sakevicius
6 some possible tissue recovered from ligatures?

7 A Yes, I did.

8 Q Did she just submit the tissue or the ligatures to you?

9 A I received the tissue from her.

10 Q What did you do with that tissue?

11 A I received the tissue on May 14th and I submitted it to
12 Genetic Designs in Greensboro, North Carolina.

13 Q What is Genetic Designs?

14 A It is a forensic DNA lab.

15 Q Did you have some identifying number on that when you
16 submitted it to Genetic Designs?

17 A Yes, I did. The items submitted was listed as my Q4,
18 possible tissue recovered from the ligature of Chris Byers, and
19 also Q39, from James Michael Moore.

20 Q Did you also examine a number of items found purported to
21 be of the victims?

22 A Yes, I did.

23 Q Did you examine State's Exhibits 45 and 48, or do you
24 recognize those? (HANDING)

25 A (EXAMINING) Yes, I do. It has my serology case number and

1 my questioned item numbers and initials on each of the bags.

2 Q Before we get to those, did you also examine the other
3 items of clothing of the victims?

4 A Yes, I did.

5 Q Did you find anything of value on those other items?

6 A No, I did not.

7 Q Specifically referring to Exhibits 45 and 48, what type of
8 tests did you run on those items?

9 A I examined these items for the presence of blood and semen.
10 I did not find any blood on each of the items. They were my Q6,
11 which were some blue jeans, and also Q10, another pair of pants,
12 were very dirty and muddy.

13 I employed a laser technique, which is an alternate light
14 source, to help determine if there were any stains I could not
15 see with the naked eye.

16 I did find some questioned stains. I further analyzed
17 these stains in a microscope to see if I could identify any
18 sperm cells present. I could not.

19 I went also and tried to determine whether there were any
20 enzymes present, specifically P30 prostatic antigen.

21 Q What do you mean by that?

22 A Prostatic antigen is a protein that is specific to the male
23 prostate that is found in semen samples.

24 I ran a test on these items for that, and I got a positive
25 reaction. However, in the course of my work I also ran control

1 samples which also gave me a similar reaction.

2 Based on that, I concluded there could possibly be
3 something in the material or in the mud that was interfering
4 with my testing.

5 Therefore, I submitted those items also to Genetic Design
6 where they could employ DNA testing which is a more sensitive
7 technique.

8 Q On these two items, Exhibits 45 and 48, are two pair of
9 pants. Is that right?

10 A That's correct.

11 Q You ran basically two tests. Well, wait a minute. Let me
12 back up. You ran a test for blood?

13 A I employed a screening test for the presence of blood.

14 Q Did that screening test indicate the presence of any blood
15 on either of the pair of pants?

16 A No, it did not.

17 Q Then you ran two screening tests for the presence of semen?

18 A That's correct.

19 Q What were the results on those tests?

20 A Actually, the first test was a laser technique. Based on
21 the condition of the garments, they were too dirty to be able to
22 visualize any type of stains with the unaided eye.

23 What the laser does is -- it picks up -- it's an alternate
24 light source. It picks up on any material that might glow. For
25 instance, there are certain items that will glow, and semen is

1 one of them. It is, however, just a basic screening test which
2 allowed me to try to first identify the stain and secondly to
3 try to continue on with my analysis.

4 The second part of the analysis is an acid phosphatase
5 test, which is again a screening test to see if the item that I
6 am testing possibly can contain semen, and that test was also
7 positive.

8 The third step is to try to visualize to see if you can see
9 any spermatozoa in the stain that I identified.

10 Q And you could not do that?

11 A That's correct.

12 Q How did you label those two items that you submitted to
13 Genetic Design -- are these the whole pants?

14 A Cuttings from the pants.

15 Q How did you label those cuttings?

16 A They're labeled as Q6 and Q10.

17 Q In the course of your duties were you requested to come to
18 West Memphis on or about June third, 1993, to participate in a
19 search?

20 A Yes.

21 Q Did you participate in the search of the home of Damien
22 Echols?

23 A Yes, I did.

24 Q I want to show you what I have marked for identification
25 purposes as State's Exhibit 83 and ask if you can identify that?

1 (HANDING)

2 A (EXAMINING) Yes, I can. It is marked as E84, which is a
3 book that came from one of the bedrooms.

4 MR. FOGLEMAN: Your Honor, we would offer State's
5 Exhibit 83.

6 MR. STIDHAM: Your Honor, may we approach the
7 bench?

8 (THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH
9 OUT OF THE HEARING OF THE JURY)

10 THE COURT: What is it?

11 MR. FOGLEMAN: Specifically, it's a satanic book.

12 MR. STIDHAM: Can we go to chambers before he
13 opens that up?

14 THE COURT: Yes.

15 (RETURN TO OPEN COURT)

16 THE COURT: All right, ladies and gentlemen, it's
17 time for another recess. So with the admonition not
18 to discuss the case, you may stand in recess for ten
19 to fifteen minutes.

20 (THE FOLLOWING CONFERENCE TOOK PLACE IN CHAMBERS
21 OUT OF THE PRESENCE AND HEARING OF THE JURY)

22 THE COURT: Let the record reflect that is a
23 hearing out of the presence of the jury.

24 MR. STIDHAM: Your Honor, our objection is going
25 to be similar to the objection your Honor sustained

1 earlier with regard to the stuff found in Jason's
2 trailer. That may be relevant entirely against Mr.
3 Echols at his trial, but it certainly isn't relevant
4 against Mr. Misskelley in this trial. They have been
5 severed, and I don't see the relevancy.

6 Even if it is relevant, which we submit that it
7 is not, the prejudicial value is so high because of
8 the cult or satanic type stuff.

9 That came from the library, but they are going to
10 introduce it as being some kind of satanic cult
11 thingamabob. Basically, they may have been proving a
12 lot of things against Jason and Damien, but they still
13 have not yet proven anything against Mr. Misskelley.
14 And that doesn't corroborate anything that he might
15 have had something to do with these homicides.

16 MR. FOGLEMAN: But, your Honor, it corroborates
17 his confession. He tells the officers about Damien's
18 involvement and stuff and his own involvement in it,
19 and this corroborates Damien's involvement which
20 corroborates his own statement. He says Damien's
21 involved in it. This corroborates it.

22 MR. CROW: For one thing, your Honor, this book
23 is not about any kind of satanic stuff.

24 MR. FOGLEMAN: It's got stuff about pacts with
25 the devil in there.

1 MR. CROW: Obviously in the three minutes I have
2 been looking at this book, I haven't read the whole
3 book. It talks about -- it appears to be about
4 witchcraft which is --

5 MR. STIDHAM: Judge, they had this big march in
6 Jonesboro to tell people the difference between being
7 a witch and being a satanist so -- Judge, there's so
8 much prejudice attached to that it wouldn't be fair to
9 allow the jury to see that because they might unfairly
10 demise [sic] that Mr. Misskelley might be --

11 MR. CROW: It is not a book found at Mr.
12 Misskelley's house, your Honor.

13 MR. DAVIS: Judge, the allegation is that Mr.
14 Misskelley acted in concert and was an accomplice to
15 and acted with Damien Echols, and it's certainly a
16 part of the State's case that the motivation for this
17 act came about as a result of their cult related
18 activities which he in fact mentioned in his
19 statement, and if there are books in Damien Echols'
20 house that go to indicate rather strongly in this
21 instance that he was involved in cult related
22 activity, it would be analogous to a situation if we
23 had charged somebody with a bombing. If there are
24 books in the house that indicate how to build a bomb
25 and how to put a bomb to use, then that certainly

1 would be relevant and admissible if a person is
2 charged in a bombing.

3 In this case the State's position is that they
4 are charged with murder, and the State's position is
5 that it is a cult related murder, and one of the three
6 co-defendants is found with books in his house that
7 relate to cult activity and satanic rituals. And we
8 don't see how much more relevant --

9 MR. STIDHAM: Judge, if he's going to use that
10 analogy, where is the chapter on killing
11 eight-year-olds? This is a homicide case not a cult
12 case. And let's assume that he did eat a dog one
13 time. What does that have to do with --

14 MR. FOGLEMAN: Jessie is the one that brought it
15 up --

16 MR. STIDHAM: -- there's nothing in that
17 statement that says anything whatsoever that the
18 killings had any motivation toward satanism.

19 THE COURT: I remember some remark in the
20 statement that Jessie made to the effect that he knew
21 what they were going to do and that either Branch
22 [sic] or Echols when he had talked to him about
23 meeting him that day said something to the effect
24 that, "We are going to go out and beat up some boys."

25 MR. STIDHAM: That's not a homicide, your Honor.

1 MR. FOGLEMAN: Your Honor, he also said at one of
2 these meetings that a photograph -- at one of these
3 cult meetings -- that a photograph of the boys was
4 passed around, and then the boys end up dead. I think
5 that shows a relationship --

6 THE COURT: Your theory is that it's admissible
7 going to motivation, scheme, intent and design on the
8 part of the three defendants collectively --

9 MR. FOGLEMAN: Yes, sir.

10 THE COURT: And, therefore, whatever evidence
11 that relates to the scheme and purpose and intent on
12 the premeditation would relate also to Misskelley. Is
13 that what you're saying?

14 MR. FOGLEMAN: Yes, sir.

15 MR. STIDHAM: Your Honor, those two defendants
16 aren't on trial. Mr. Misskelley is.

17 THE COURT: He was severed and only because he
18 made a cross-implicating statement that implicated the
19 other two defendants. His statement wouldn't have
20 been admissible to the other two guys so that's why
21 he's got a separate trial.

22 MR. STIDHAM: Your Honor, let's assume for a
23 minute -- and there has been testimony to this effect
24 -- that there were rumors going around West Memphis
25 that Damien Echols was involved or is a witch or is

1 involved in a cult. That doesn't necessarily mean
2 that Jessie is, and it doesn't necessarily mean that
3 anything found in Damien's house or Jason's house
4 regarding satanic stuff is --

5 THE COURT: The whole thing is, is the cult
6 business relevant, and I believe it is relevant
7 because it goes to motivation, it goes to corroborate
8 the statement that he made that they were involved in
9 some kind of cult or club or gang or whatever you want
10 to characterize it, and that those activities involved
11 doing some of the things he testified to, like eating
12 dog leg and having orgies and things of that nature.

13 MR. STIDHAM: Is there anything in this book,
14 John or Brent, other than something about witchcraft
15 that would tend to relate this to the homicide?

16 MR. FOGLEMAN: I haven't read every page.
17 There's some stuff in there about pacts with the devil
18 and things like that.

19 MR. CROW: If you're talking about forced
20 confessions -- it's talking about courts, I think, in
21 the Dark Ages -- what they did --

22 MR. FOGLEMAN: If Mr. Stidham wants to argue from
23 that book, your Honor --

24 THE COURT: How much more evidence like this are
25 you going to introduce?

1 MR. FOGLEMAN: Your Honor, probably -- that's the
2 only other physical item. There will be a witness who
3 will testify about Damien saying -- the one we talked
4 about before about, "I did it."

5 THE COURT: You are raising an 804 objection to
6 this and the other testimony.

7 MR. CROW: Yes.

8 THE COURT: If you hadn't come on so hard in your
9 defense about it being a false confession, I might
10 have been persuaded to keep some of that out, but to
11 me you've opened the door to this kind of testimony
12 coming in to show that the confession was in fact
13 based upon circumstances that existed.

14 MR. CROW: We acknowledge that Damien's weird.

15 THE COURT: That is not the issue.

16 MR. STIDHAM: If Jessie in his statement would
17 have said this was a cult killing where we went out
18 there and built a fire and killed these little kids as
19 part of a ritualistic situation, that might be
20 different. But there is a dichotomy between the two
21 things.

22 THE COURT: The question is not what was said
23 exactly but what reasonable inferences or relationship
24 a jury could draw from what was said. They could
25 conclude that this killing was based upon a cult

1 ritual based upon his statement, and that would be
2 motivation and intent, design, scheme, premeditation,
3 all of those things. And from that kind of testimony
4 a jury could conclude that that was what occurred.
5 I'm going to let them put it in.

6 MR. CROW: Note our objection.

7 (RETURN TO OPEN COURT)

8 CONTINUED DIRECT EXAMINATION

9 BY MR. FOGLEMAN:

10 Q Referring again to State's Exhibit 83, where did you locate
11 this item?

12 A It was in the first bedroom. There was a chest or trunk of
13 some sort. If I recall, it was on top of that.

14 MR. FOGLEMAN: We offer State's Exhibit 83.

15 THE COURT: It may be received.

16 (STATE'S EXHIBIT 83 IS RECEIVED IN EVIDENCE)

17 BY MR. FOGLEMAN:

18 Q What effect, if any, would the victims being submersed in
19 water have on the possibility of finding semen in the oral
20 cavity?

21 A Even in the best of circumstances and even regular sexual
22 assault cases you rarely find semen in the oral cavity. I would
23 expect that being submerged in the water the chances of semen
24 surviving in any orifice would be greatly diminished.

25 Q Did you say any orifice?

1 A That's correct.

2 Q Besides the mouth, what were you talking about?

3 A The mouth or the rectum.

4 CROSS EXAMINATION

5 BY MR. STIDHAM:

6 Q On State's Exhibit 45 and 48, you found no blood and no
7 sperm. Is that correct?

8 A That's correct.

9 Q This is the book you found at Damien's?

10 A That's correct.

11 Q Do you know where it came from?

12 A (EXAMINING) Inscription here is, "Crittenden County
13 Library."

14 (WITNESS EXCUSED)

15 MICHAEL DEGUGLIELMO

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 spell your last name?

21 A Michael DeGuglielmo, D-E-G-U-G-L-I-E-L-M-O.

22 Q What is your occupation?

23 A I'm employed as the director of forensic analysis for
24 Genetic Design.

25 Q What is Genetic Design?