

1 Q That was the first time you had seen the three of them
2 together?

3 A Together. Yes, sir.

4 Q Have you seen the three of them together after that?

5 A Yes, I have.

6 (WITNESS EXCUSED)

7 MR. DAVIS: Your Honor, there's something we need
8 to take up with you before we proceed.

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

12 (THE FOLLOWING CONFERENCE WAS HELD IN CHAMBERS)

13 THE COURT: Let the record reflect this is a
14 hearing out of the presence of the jury.

15 MR. FOGLEMAN: We've got a problem that has
16 developed that may or may not affect what the
17 testimony is.

18 We have now had the second witness that has told
19 us one thing about incriminating information against
20 one of the other defendants -- the second one that has
21 now after the investigator talks to them all of a
22 sudden they see things in a whole new light and recant
23 everything they have told the police. This particular
24 witness that was to be called next has maintained
25 since before the arrests that Damien Echols told him

1 that he did it.

2 MR. DAVIS: Not only before the arrest before
3 Jessie Misskelley's statement or anything.

4 MR. FOGLEMAN: That's right. And has maintained
5 it in a number of conversations with Detective Ridge.
6 I have had one conversation with him personally on the
7 telephone after he was subpoenaed for this trial, and
8 he says now for the first time -- yesterday
9 Investigator Lax talked to him and all Investigator
10 Lax asked him according to him is, is your statement
11 true, and he says, no, it's not. Now he's saying it
12 is all false.

13 And, your Honor, there's some information to
14 indicate that this Lax may be intimidating witnesses
15 and, frankly, I have never had this come up in a
16 trial.

17 In the other case we have a videotape statement
18 of a guy who after giving his statement -- I was
19 present when he came out. I wasn't there during his
20 statement. After he came out the only concern he
21 expressed to me was a fear of Jessie and his friends
22 and then when I seek to talk to him further, all of a
23 sudden the police department gets a telephone call
24 from Ron Lax saying this guy will not be coming in at
25 that time, that this witness decided he needs a lawyer

1 and then recants his statement that he's given the
2 police.

3 Your Honor, I'm tired of it and I don't know what
4 the Court can do, but we would like some kind of
5 protective order to prevent this investigator from
6 talking to witnesses unless one of us is present
7 because I don't know what he's saying to these
8 witnesses.

9 MR. CROW: Your Honor, I don't have any
10 information about what happened with the last witness.
11 The first witness -- I do know that when he finished
12 his tape recorded statement -- Officer Ridge
13 volunteered this to us -- as soon as they turned off
14 the tape recorder, he turns to them and says, I was
15 lying the whole time. You can ask Officer Ridge about
16 that.

17 MR. FOGLEMAN: And then said the reason he said
18 that was because he was afraid of Jessie and his
19 friends.

20 MR. CROW: Ridge volunteered to us that he
21 testified that he lied in his videotaped statement.

22 MR. FOGLEMAN: And then said the reason he said
23 that -- after saying that, then went back to the
24 original and said, the reason I said I was lying on
25 the videotaped statement was because I was afraid of

1 Jessie and his friends.

2 MR. STIDHAM: Your Honor, he now says that he's
3 afraid of the police and said the police yelled and
4 screamed at him and threatened to lock him up and even
5 bought him a pair of boots to make him happy.

6 THE COURT: Who is this you're talking about?

7 MR. STIDHAM: Buddy Lucas. Your Honor, I was
8 present when Mr. Lucas gave his statement --

9 MR. FOGLEMAN: Not the first time --

10 MR. STIDHAM: Not the first time but the second
11 time. There was no intimidation, threats, force or
12 anything towards Mr. Lucas to get him to testify or
13 make this statement. In fact his family was present.

14 MR. FOGLEMAN: But you were not there the first
15 time Lax talked to him.

16 THE COURT: Who is Lax?

17 MR. FOGLEMAN: Damien's investigator.

18 MR. STIDHAM: He has done some work for us, too,
19 your Honor, in tracking down witnesses from Crittenden
20 County.

21 THE COURT: Where is he from?

22 MR. STIDHAM: Memphis.

23 THE COURT: Does he have an Arkansas
24 investigator's license?

25 MR. DAVIS: Yes. We checked that out, Judge.

1 MR. STIDHAM: I have no reason to believe that
2 he's intimidating anybody and if I thought he was, I
3 would disassociate myself with him immediately, and I
4 hope this isn't some sort of insinuation that Mr. Crow
5 and I have done something improper because it's not.
6 And with regard to the protective order we have a
7 right to talk to any witness we want to. They can
8 refuse to talk to us like they can refuse to talk to
9 the police. We don't tell people what to say. And
10 they get up here and take an oath to tell the truth --
11 if that's what they are going to say, that's what they
12 are going to say.

13 MR. FOGLEMAN: We don't tell people what to say
14 either. And when they maintain something for seven
15 months -- this man -- this is not even somebody that
16 the police sought out. He came to the police --
17 William Jones. He came to the police with this
18 information.

19 MR. STIDHAM: The police are threatening people
20 and telling them what to say.

21 MR. FOGLEMAN: No.

22 MR. STIDHAM: That is what Mr. Lucas says.

23 MR. FOGLEMAN: That's not true.

24 MR. DAVIS: Judge, the big concern here is that
25 when Mr. Stidham says he didn't have anything to do

1 with it -- we are not alleging that he had anything to
2 do with it -- but what concerns us so much is that all
3 the defense attorneys knew who these people were, have
4 had an opportunity to contact them, they stick with
5 their story until all of a sudden Mr. Lax -- who by
6 the way, volunteered to be on this case and as I
7 understand it has volunteered to work for Damien
8 without pay -- and then has now worked his way in and
9 volunteered his services for all the co-defendants.
10 And this morning when the witness William Jones shows
11 up and we get ready to talk to him, here with him is a
12 female dressed in black representing the Lax firm that
13 she says -- Mr. Jones says I'm not to talk with you
14 unless she's present and says that's what Mr. Lax
15 tells me. That is what I want to do. Unless she's
16 present, I'm not talking to anybody.

17 THE COURT: What you need to do is bring him in
18 with a prosecutor's subpoena and consider filing
19 charges against him for giving false statements to the
20 police.

21 MR. STIDHAM: With reference to Mr. Jones, I
22 think the reason why he decided to change his story at
23 the last minute is because now he's fixing to have to
24 come in to a court of law and raise his right hand and
25 take an oath and that's something he hasn't done

1 before, and I think that is kind of bothering him.

2 THE COURT: That may be but if Mr. Lax had an
3 associate with this witness saying that he wasn't
4 going to speak to the prosecuting attorney unless it
5 was in the presence of some volunteer investigator,
6 the Court doesn't appreciate that one bit.

7 Did you let the woman stay in there?

8 MR. FOGLEMAN: Your Honor, with the witness
9 sitting there saying he wasn't going to talk to us
10 unless she was present -- that's what he's been told
11 -- we didn't have much choice.

12 MR. STIDHAM: Your Honor, the witness is scared
13 of retaliation. That is what Mr. Lax tells me.

14 THE COURT: I don't know what the Court can do on
15 this but I know -- just open up an investigation on
16 it. That's what I suggest you do.

17 MR. STIDHAM: If the law has been broken, then
18 the prosecutor can file charges. I don't see any
19 evidence whatsoever that Mr. Lax has done anything.

20 MR. DAVIS: The problem is, it is not going to do
21 us a lot of good if six months from now we find out
22 that Mr. Lax coerced or intimidated or improperly
23 dealt with witnesses if this trial is long since over
24 with and those witnesses were not brought forth to
25 testify because of his actions.

1 THE COURT: I don't know what I can do right now
2 with no more than what we've got to go on.

3 MR. DAVIS: Judge, one of the things we're
4 debating is whether or not to call William Jones and
5 treat him as a hostile witness --

6 THE COURT: I will allow you to do that, too.

7 MR. CROW: Your Honor, if they do that, the only
8 thing his prior inconsistent statement can be for is
9 for proof that he's lying now. The prior inconsistent
10 statement can't come into evidence for the truth of
11 the matter asserted. They are not surprised by his
12 statement. If they get up there and --

13 MR. FOGLEMAN: -- I'm extremely surprised by his
14 statement.

15 MR. CROW: They knew last night what was
16 happening.

17 MR. DAVIS: Apparently Mr. Lax calls y'all and
18 tells you what is happening.

19 MR. STIDHAM: We received a phone call and I want
20 to say this for the record. I tried to contact Mr.
21 Fogleman yesterday before he left West Memphis, and I
22 did talk to him last night.

23 MR. FOGLEMAN: Of course, by the time we find out
24 it is too -- there are lots of other witnesses who say
25 they heard Damien -- not at this particular instance

1 -- of course, it is too late to get them up here -- I
2 mean even last night it would have been almost
3 impossible to get them here this morning.

4 MR. CROW: I tried to call you all day long. I
5 was in West Memphis.

6 THE COURT: What is it you want to do, call the
7 witness and ask him what he knows about it and then
8 ask him, did you previously give the police a
9 different story? Is that what you want to do?

10 MR. DAVIS: Yes.

11 MR. CROW: I would object to that. The only
12 thing they can use a prior inconsistent statement for
13 is to impeach his credibility. He's their witness. I
14 don't think anything he says needs to be impeached.
15 The prejudicial value of him saying what his prior
16 inconsistent statement was -- even though you can tell
17 the jury that this prior statement only goes to his
18 credibility -- it's not evidence -- the jury is going
19 to hear it. I strenuously object.

20 MR. STIDHAM: We need to take up the 804 B
21 argument that we previously brought up. And I think
22 what William Jones told the police earlier is that
23 Damien got drunk and told him that he, Damien, killed
24 the three little boys and we've got that argument,
25 too. We've got a two-pronged argument with regard to

1 that.

2 THE COURT: Do you want to call him in here and
3 make an offer of proof --

4 THE FOGLEMAN: Yes.

5 THE COURT: -- you can at least put him under
6 oath that way. If you can later go back and prove
7 that he lied, charge him with perjury.

8 MR. DAVIS: We need to bring the lady in black
9 back here, too.

10 THE COURT: Who is she?

11 MR. FOGLEMAN: When I first asked who she is, she
12 says, I'm so and so. I'm here for his mother. I said
13 well, what do you mean for his mother. His mother
14 couldn't come. And then I said, what relation are
15 you. I'm -- I work for Ron Lax.

16 MR. STIDHAM: Your Honor, if my witnesses don't
17 testify the way I want them to, can I make offers of
18 proof?

19 THE COURT: If you want to.

20 MR. FOGLEMAN: I have never had a case where I
21 have had the kind of stuff happen with witnesses that
22 I have in this.

23 THE COURT: The offer of proof is for your
24 benefit.

25 MR. STIDHAM: I understand, your Honor. I'm just

1 BY MR. DAVIS:

2 Q Will you please state your name?

3 A Cheryl Aycock.

4 Q Where are you employed?

5 A Inquisitor, Incorporated.

6 Q Is that the business operated and run by Ron Lax, private
7 investigator?

8 A Yes, it is.

9 Q He is the private investigator working in behalf of Damien
10 Echois in regard to this trial?

11 A Yes.

12 Q Is he employed by any of the other defendants?

13 A Um, not that I know of. I don't know for sure.

14 Q To your knowledge, he's not employed by Jessie Misskelley
15 or Jason Baldwin. Is that correct?

16 A To my knowledge.

17 Q Is it true that you came here and accompanied today,
18 William Jones, a witness that was subpoenaed by the State?

19 A Yes.

20 Q Did you in fact -- was Mr. Jones advised for you to be in
21 the room when we talked with him?

22 A By his mother, yes.

23 Q And were you present when that took place?

24 A Yes.

25 Q Who else was present?

1 A His mother, Dequita Dunham, and his stepfather, Ricky
2 Dunham.

3 Q Is Dequita Dunham his mother?

4 A Yes.

5 Q Was Ron Lax present?

6 A Yes. I'm sorry. He was, too.

7 Q When did that take place?

8 A Yesterday afternoon.

9 Q Did y'all take a tape recorded statement from Mr. Jones at
10 that time?

11 A Yes.

12 Q Were you present?

13 A Yes.

14 Q Was there any conversations with him prior to the tape
15 recorded statement?

16 A Yes.

17 Q Can you give us the substance of those conversations?

18 MR. FOGLEMAN: Your Honor, before we get into
19 that, could we excuse Mr. Jones?

20 THE COURT: Yes. Step out in the hall.

21 (WILLIAM JONES LEAVING CHAMBERS)

22 BY MR. DAVIS:

23 Q Could you tell us the substance of those conversations?

24 A Yes. He wanted to talk with William about his statement to
25 the police. William called him on the car phone. I was there.

1 We went and met him at the grocery store at Lakeshore.

2 Q Was he returning the call of Mr. Lax?

3 A Yes. He was returning the call of Mr. Lax.

4 Q Okay.

5 A Ah, William got in the car and Ron said he wanted to talk
6 to him about the statement he gave to the police. William said
7 he wanted to talk to his mother before he talked to him.

8 Q Is that all Ron said is, I want to talk to you about your
9 statement?

10 A He did say, I don't think that it is true.

11 Q So he did say that to William.

12 A Um-hum.

13 Q Did he point out any reason why he didn't think it was
14 true?

15 A He said because the dates didn't match.

16 Q What else did he tell William Jones?

17 A That is when William said, I want to talk to my mother
18 before I talk to anybody. He said, do you want to call her now,
19 and they called from the car phone. And we asked him if he
20 wanted a ride to go up there. He said yes.

21 Q What kind of car were y'all in?

22 A '88 BMW.

23 Q So William gets in the car with you and Lax -- in the BMW?

24 A Um-hum.

25 Q What discussion took place about this statement in the car?

1 A Just what I said. He said, I want to talk to you about the
2 statement you gave to the police. I think if I recall correctly
3 William saying, what about it. And he said, I don't think it is
4 true. And he said, well, why do you think that and he said
5 because the dates don't match up and at that time --

6 MR. FOGLEMAN: What dates was he referring to?

7 THE WITNESS: Just some dates that were mentioned
8 when he spoke with Damien and supposedly heard what
9 Damien said and when he gave the statement.

10 BY MR. DAVIS:

11 Q So then you get back at his house. How long did it take
12 you to get from the grocery store to his house?

13 A Um, twenty minutes.

14 Q What else transpired during the twenty minutes? That's
15 maybe a two or three minute conversation. What happened during
16 the other seventeen?

17 A They talked about his car. I was in the backseat, and I
18 really couldn't hear.

19 Q So you don't know what they discussed?

20 A The only discussion -- there wasn't much to it that I
21 heard. What discussion I heard was about the car.

22 Q Was any of that conversation taped?

23 MR. CROW: Excuse me. Let me interrupt. I
24 believe at this point I made a phone call to Ron.

25 MR. FOGLEMAN: Let her testify.

1 THE WITNESS: I remember now. He was on the
2 phone with several people during that time. I think
3 he talked with Dan and Val. He carried on several
4 conversations.

5 BY MR. DAVIS:

6 Q Would the gist of his conversation be that he's got William
7 Jones with him in the vehicle to let them know he had the
8 witness?

9 A I don't recall him saying that. He said he was on his way
10 to -- what's the name of that town -- Haford -- Heafer.

11 Q When you get to the house, what happened?

12 A We went in and sat down, and Mrs. Dunham and William went
13 to the back room and talked for a while and then she came back
14 and got Ricky Dunham and he joined them.

15 Q Anybody else back there during that conversation?

16 A No. Ron and I stayed in the living room.

17 Q Did Ron have any independent conversations with the boy's
18 mother?

19 A Not out of everyone's presence.

20 Q What did he say in everyone's presence?

21 A She came back and asked first of all what kind of trouble
22 William could get into if he were to say that he lied.

23 Q Did Ron tell her that perjury was a felony?

24 A He told her it was against the law to lie to the police.

25 Q Did he tell her that the boy would go to prison if they

1 showed that he was lying?

2 A He told him he wasn't a lawyer.

3 Q But he told him it was a criminal offense, what he was
4 getting ready to do?

5 A He informed him it was against the law to lie to the
6 police. That's what he said. But he also said it's against the
7 law to get on the stand and lie.

8 Q Was that conversation recorded?

9 A No.

10 Q At what point was the conversation recorded?

11 A He asked William if he could take a statement and William
12 agreed.

13 Q Did William go over what he was going to say in that
14 statement before he turned on the tape recorder?

15 A He said, I'm going to talk to you about what we've
16 discussed, and I want you to answer and tell me the truth.

17 Q So if he used coercive tactics before the recorded
18 statement, we wouldn't know because he didn't have the tape
19 recorder turned on, correct?

20 MR. STIDHAM: That sounds familiar, Judge --

21 A Correct.

22 MR. CROW: -- sounds familiar --

23 THE COURT: All right. Let's go.

24 BY MR. DAVIS:

25 Q And when he took the statement, what did William Jones tell

1 him?

2 A He told him that he had lied to his mother and that he had
3 told her that he knew something that he didn't know. Then he
4 didn't think she would call the police but she did because she
5 felt like it was the right thing to do. And he -- well, she
6 accompanied him to give the statement and he didn't want to lie
7 in front of her.

8 Q Did he also mention that for the last seven months he had
9 continued to give this story to the police?

10 A No.

11 Q Did he indicate that he had given this story to the police
12 on four or five separate occasions?

13 A No. I had no idea.

14 Q Did he indicate that he had given the same story to Mr.
15 Pogleman within a week of the time that y'all talked to him?

16 A No. Like I said, he didn't mention any other statements to
17 the police or discussions with the police other than with
18 Detective Ridge when he got the subpoena and he called and
19 wanted to know when he was supposed to be there and what it was
20 for.

21 EXAMINATION

22 BY MR. STIDHAM:

23 Q Were any force, threats or promises made against Mr. Jones
24 to get him to make this statement on tape?

25 A No.

1 Q Did he do it voluntarily?

2 A Yes.

3 THE COURT: Where do you live?

4 THE WITNESS: Memphis.

5 THE COURT: Are you a licensed private
6 investigator in Arkansas?

7 THE WITNESS: No, sir, I'm not.

8 EXAMINATION

9 BY MR. DAVIS:

10 Q Did you do any questioning of the witness yesterday?

11 A No, sir.

12 Q Did you do anything besides ride in the vehicle?

13 A No, sir.

14 Q Are you being paid for driving over here this morning?

15 A No, sir. I volunteered.

16 Q Did Mr. Lax volunteer, too?

17 A No, he approved it but I volunteered because his mother had
18 to go to school and he didn't want to ride with the police up
19 here.

20 EXAMINATION

21 BY MR. STIDHAM:

22 Q Has anyone told Mr. Jones to do anything other than tell
23 the truth?

24 A No.

25 THE COURT: Is Mr. Lax a volunteer?

1 MR. PRICE: Mr. Lax is a private investigator
2 working for Mr. Echols.

3 THE COURT: On a volunteer basis.

4 MR. PRICE: We will be submitting his fee at the
5 conclusion of the case, your Honor, as an expert
6 witness.

7 MR. FOGLEMAN: Your Honor, I was told he
8 volunteered from the very beginning --

9 MR. STIDHAM: Judge, this isn't the proper time
10 or place to be arguing this. This needs to be --

11 THE COURT: That's why I asked it because it was
12 announced to me that he was a volunteer.

13 MR. PRICE: We intend to submit his fee petition
14 at the conclusion of the case.

15 MR. FOGLEMAN: We are going to be objecting
16 because there are plenty of private investigators that
17 don't drive a Mercedes or BMW.

18 MR. STIDHAM: Judge, that has nothing whatsoever
19 to do with anything. That's ridiculous.

20 MR. FOGLEMAN: What I object to is being told he
21 is a volunteer and all of a sudden be told they are
22 going to submit a fee petition.

23 MR. STIDHAM: For the record, Mr. Lax has done
24 some work for us, too, at our request.

25 THE COURT: Well, none of it was approved by the

1 Court.

2 (WITNESS EXCUSED)

3 WILLIAM JONES

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

6 EXAMINATION

7 BY MR. FOGLEMAN:

8 Q Will you please state your name?

9 A William Jones.

10 Q Where do you live?

11 A Route 2, Box 919, Southwest Lake Drive.

12 Q Who do you live there with?

13 A My dad.

14 Q How long have you been acquainted with Damien?

15 A Since about 7th grade.

16 Q Are you aware of when these murders occurred?

17 A From the newspaper I think they said -- I forgot when the
18 date was.

19 Q You knew that they had happened?

20 A Yes.

21 Q After the murders happened, isn't it true that you had a
22 conversation with Damien where Domini was present in the park?

23 A No, sir.

24 Q That didn't happen?

25 A No, sir.

1 Q Tell me about it. Tell me what happened.

2 A Nothing happened.

3 Q Nothing happened?

4 A (SHAKES HEAD)

5 Q Tell me what you told the police.

6 A I went to them and told them Damien confessed to me but
7 only --

8 Q Tell me what you told the police. Tell the judge what you
9 told the police.

10 A Went and told them -- I confessed that he had told me that
11 he did it.

12 Q What else did you tell them that he told you? What were
13 the circumstances?

14 A I don't remember everything I said. I just told him, you
15 know --

16 Q Mr. Lax showed you the statement yesterday?

17 A I didn't read it. He said there was -- I don't remember
18 what all I told them. I think I said there was more than one
19 person with him.

20 Q Where did you tell them this conversation took place?

21 A In Lakeshore.

22 Q What were the circumstances that you told them this took
23 place in? What was going on?

24 A Told them we was down there talking.

25 Q What was Damien's condition at the time he was talking?

1 A I told them he was drunk.

2 Q Tell the judge what you told the officer that Damien said
3 to you?

4 A That he killed them. But can I say something?

5 Q In a minute. The day -- the following day after Damien's
6 told you that he did this, tell the judge what you told the
7 police about what Damien came to you and said then.

8 A Could you repeat yourself?

9 Q The next morning after Damien told you this, tell the judge
10 what you told the police that Damien came to you and said about
11 the night before about being drunk.

12 A I don't remember what I said.

13 THE COURT: Refresh his memory.

14 BY MR. FOGLEMAN:

15 Q Do you remember telling the police that Damien came to you
16 the next morning and said, what did I say to you last night?

17 A Yes, I remember that.

18 Q Tell the judge.

19 A I told him he came to me and asked me what he said.

20 Q What did you say that you said?

21 A I don't remember. I just remember saying that.

22 Q In fact you told them that you told him that he said he had
23 killed them, and what did Damien respond?

24 A I'm telling you, Mr. Fogleman, I don't remember what I
25 said.

1 Q Isn't it true that you told the police that Damien
2 responded that, I was drunk and I didn't mean any of that?

3 A Yes, sir, I believe that's what he said. I can't really
4 remember.

5 THE COURT: Why would you go to the police way
6 back before anybody was arrested and make such a
7 statement? Why did you do it?

8 THE WITNESS: There was a bunch of rumors going
9 around. I told my mom and my aunt that I knew
10 something, and I didn't. I don't know why I did that.
11 When she called the police, I figured I got to lie to
12 them, too. I didn't know.

13 BY MR. FOGLEMAN:

14 Q You told your mom that Damien told you this?

15 A Yes, sir.

16 Q You told your aunt -- this is back before you told the
17 police. You told your aunt that Damien had told you this?

18 A Yes, sir, because I told her and my mom at the same time.

19 Q Then you went to the police?

20 A No, sir. My mom called the police.

21 Q The police didn't come out and take a statement at your
22 house, did they?

23 A They told me where to meet them at.

24 Q And you came up there, didn't you.

25 A Yes, sir.

1 Q They asked you what happened, didn't they?

2 A Yes, sir.

3 Q They took a tape recorded statement from you, didn't they?

4 A Um-hum.

5 Q Where you told them about this conversation with Damien?

6 A Yes, sir.

7 Q And since that time, isn't it true that Detective Ridge has
8 contacted you three or four times?

9 A Telling me I got to go to court.

10 Q He's also asked you if there's anything about your
11 statement that has changed, didn't he?

12 A No, sir, I don't believe so. He told me to get up there
13 and tell the truth.

14 Q He has not asked you whether your statement has changed?

15 A I don't believe he has. I ain't saying he didn't. He
16 might have, but I don't believe so.

17 Q Isn't it true that after you got the subpoena to testify in
18 the Jessie Misskelley trial, that you talked to Detective Ridge
19 and then you talked to me on the phone?

20 A Yes, sir.

21 Q And isn't it true that I asked you about your statement?

22 A You said I called you. I don't really remember calling
23 you. You said I did. If you said I did --

24 Q You don't remember talking to me?

25 A I think, yeah, I did. Yeah, I did.

1 Q Isn't it true that I asked you about your statement about
2 Damien?

3 A (NODS HEAD)

4 Q You told me that that was the truth?

5 A I don't remember. I can't remember the exact conversation
6 I had with you.

7 Q Do you remember talking to me at all?

8 A You said I called you so --

9 Q Do you remember it?

10 A No, sir.

11 Q You don't remember talking to me at all?

12 A Only person I remember talking to about it is Detective
13 Ridge.

14 Q You don't remember talking to me on the phone about why you
15 were called in Jessie Misskelley's trial as opposed to Damien's
16 trial and me explaining to you why you were called?

17 A Yes, sir, I do.

18 Q You do remember the conversation?

19 A I don't remember the conversation. I remember talking to
20 you. I do remember that now.

21 Q Isn't it true that here it is January 31st and you have not
22 told anybody that the statement you gave to the police was not
23 true until Investigator Lax --

24 A It is not true.

25 Q Who'd you tell that to?

1 A My little cousin.

2 Q When did you tell him?

3 A The same day that my mom called the police and talked to
4 them. I asked him what I should do. He said he didn't know. I
5 said I guess I'm going to have to go there and lie.

6 Q Have you told anybody, either myself or anybody with law
7 enforcement, that this story was not true until today?

8 A Just detective -- private investigator yesterday.

9 Q I'm talking about somebody with law enforcement.

10 A No, sir.

11 Q Then yesterday somebody comes and talks to you?

12 A Yes, sir, I called him. He left a card at the house.

13 Q He came by to see you, right?

14 A Yes, sir.

15 Q Then you call him?

16 A (NODS HEAD)

17 Q Tell the judge what happened when you called him. What was
18 said?

19 A He asked me where I was and I told him. He said, can I
20 come talk to you. I said yes. He started talking to me, asked
21 me if my report was true that I gave the police. He said if
22 everything was -- he asked me if everything was true and I said,
23 I want to go talk to my mom before I talk to you any further
24 because I don't know. I wanted my mom to be there.

25 Q When you were talking to him on the phone, to the best of

1 your memory what was said by everybody?

2 A He answered the phone. I told him who I was. Asked me
3 where I was. I told him. He asked me if he could come talk to
4 me.

5 Q Did he say who he was?

6 A Yeah.

7 Q Who did he say he was?

8 A Donald Lax. Something Lax. You know his name.

9 Q What -- but what did he say? I'm Donald Lax?

10 A He asked me could he come talk to me.

11 Q I know but I mean did he tell you who he --

12 A You can come talk to me --

13 Q Slow down. Did he tell you who he represented?

14 A Yes, sir.

15 Q What did he say?

16 A He said he represents Damien Echols.

17 Q When he told you he represented Damien Echols, what did you
18 say?

19 A Nothing. He asked me if he could talk to me. I said come
20 on.

21 Q Then he came. Is that the end of that conversation?

22 A Yes, sir, as I hung up the phone.

23 Q Then when you got -- what kind of car were they in?

24 A Mercedes or something like that.

25 Q Who all was in the car?

1 A Him and that woman that is with me today.

2 Q Where was everybody sitting when you got in the car?

3 A She was sitting in the front seat in the passenger side,
4 and he was driving.

5 Q Where did you sit?

6 A She got out and went in the backseat. I got in the front
7 seat.

8 Q When you got in the front seat, what was said?

9 A He asked me about my report, asked me if everything I said
10 was true.

11 Q That's what he said?

12 A Yes, sir.

13 Q What else did he say?

14 A Nothing because I told him I wanted to go talk to my mom.

15 Q You realize you are under oath?

16 A Yes, sir. He may have said something else but I don't
17 remember exactly what else he said.

18 Q Well, think real hard.

19 A I am, man. I'm telling you everything that happened. He
20 asked me about the report --

21 Q What did he say about the report, your statement?

22 A Asked me if it was true.

23 Q Did he ask you or tell you?

24 A Asked me if it was true.

25 Q And when he said, is it true, what did you say?

- 1 A I said I want to go talk to my mom.
- 2 Q That's all you said?
- 3 A Yes, sir.
- 4 Q That's all he said?
- 5 A I believe so.
- 6 Q Did he tell you anything about some dates being wrong?
- 7 A When we got out to my mom's house, he had mentioned
8 something to me about some dates being wrong, but that was after
9 I had already told him.
- 10 Q All right.
- 11 A Because my mom asked him how come he figured my report was
12 wrong and he said something about some dates.
- 13 Q On the way out there -- all right, he says would you mind
14 giving a statement, or is your report true, and you said I want
15 to talk to my mom. Then what happens?
- 16 A We rode out there.
- 17 Q On the ride out there, what did y'all talk about?
- 18 A Nothing. Really didn't say nothing because mostly what we
19 talked about was his car.
- 20 Q What did you say about his car?
- 21 A Asked him if it would do what was on the speedometer.
22 That's the main thing I remember asking him.
- 23 Q That's all y'all talked about all the way out to Heafer?
- 24 A Yes, sir.
- 25 Q Wasn't anything said about the statement or the case or

1 anything else?

2 A No, sir.

3 Q You understand that we've talked to --

4 A Yes, sir, I understand.

5 Q I want you to think real hard.

6 A I don't believe he said anything else about the case. As
7 far as I can remember, he didn't.

8 Q Did he talk to anybody else about the case on the telephone
9 while you were in the car?

10 A I remember -- I think he called somebody and said he was
11 taking me out to my mom's house to talk to us.

12 Q What did he say?

13 A He called or somebody called him. I can't remember. He
14 just -- that is all he said. He said he was taking me out to my
15 mom's house --

16 Q What I'm talking about -- he didn't say, I'm taking me --

17 A I'm taking William Jones out to his mother's house to talk
18 to him.

19 Q Those were his exact words?

20 A It was around like that. It means the same thing.

21 Q When you get out to your mom's house, who is at your mom's
22 house?

23 A My stepdad and my mom.

24 Q What happens there?

25 A We go in and they sit down. I told my mom to come back to

1 her bedroom. I wanted to talk to her. We went back there.
2 Then she brought my stepdad back there, talked to them and went
3 back up front and I told him.

4 Q When you got back up front, what happened?

5 A I told them I lied.

6 Q When it did come up about some dates?

7 A After I already told him I lied, my mom asked him how he
8 figured my report was wrong, or something, and he said something
9 about some dates.

10 Q You better think real hard, William. When did he say
11 anything about something being wrong with your statement?

12 A Man, I don't know nothin' about this. Could I get a
13 lawyer?

14 MR. STIDHAM: Your Honor, I don't think it is
15 necessary for the prosecutor to --

16 THE COURT: Let him answer the question. Answer
17 the question.

18 BY THE WITNESS:

19 A Would you repeat yourself?

20 Q When did he first say something to you about something
21 being wrong with your statement?

22 A I believe it was at my mom's house. He asked me if it was
23 true at the store. He said, you know, if everything was true
24 and, well, you are confusing me.

25 THE COURT: Do you think you need a lawyer?

1 THE WITNESS: I don't know. Do I?

2 THE COURT: It sounds to me like you do. I'm
3 going to stop it now and he can get a lawyer. That's
4 all you need to question him about at this point.

5 You have a right to a lawyer and anything from
6 this point that you might say can be used against you.
7 Do you understand that?

8 THE WITNESS: Yes, sir.

9 THE COURT: It will be up to the prosecuting
10 attorney whether he wants to file charges against you
11 for giving a false statement to the police department.
12 That is a felony offense.

13 MR. STIDHAM: For the record, Mr. Fogleman, in
14 your previous discussions with Mr. Jones, did he
15 indicate Mr. Lax intimidated him or threatened him or
16 coerced him?

17 MR. FOGLEMAN: Are you talking about the
18 conversation I had in the vault with him with Mr.
19 Lax's righthand person right beside him?

20 MR. STIDHAM: Yes.

21 MR. FOGLEMAN: No. He said that all Mr. Lax said
22 is, is your statement true.

23 THE COURT: That's enough. You don't need to say
24 anything else. If they want to charge you with a
25 criminal offense, then you'll have to answer to it.

1 So anything you say from now on can be used against
2 you. If they do charge you, you'll be entitled to a
3 lawyer.

4 If anybody asks you any questions, including Mr.
5 Lax or that woman you came in here with, you best be
6 minded that what you say can be used against you.

7 THE WITNESS: Yes, sir.

8 MR. FOGLEMAN: Even to them.

9 (WITNESS EXCUSED)

10 THE COURT: I don't know what kind of impression
11 the Court has from listening to it. It could be a
12 false statement from the beginning or it could be one
13 that he's been coerced to recant. I can't tell. But
14 we've made a record on it.

15 And, gentlemen, I hadn't approved any private
16 investigator for anybody so when you submit the bill
17 for that, I'm going to sure look at it very carefully.

18 For that matter, in the future if you're going to
19 hire any expert or anybody to assist in it, then you
20 need to get prior approval of the Court.

21 MR. DAVIS: We would also like to know has there
22 been any prior approval for payment for Ofshe or
23 Holmes?

24 THE COURT: I don't even know who they are.

25 MR. DAVIS: They were the two guys at the

1 suppression hearing. Mr. Holmes was the polygraph
2 gentleman from Miami who testified at the suppression
3 hearing. Doctor Ofshe was the expert in attendance at
4 that hearing.

5 MR. DAVIS: Has there been money approved to pay
6 them, or are they under any sort of fee agreement?

7 MR. STIDHAM: We told them that we couldn't
8 guarantee they'd ever get a nickel. We asked them if
9 they'd help us and we'd submit a bill for them at the
10 conclusion of the case. It would be up to the Court
11 to decide what, if any, compensation they receive.

12 MR. DAVIS: Are they billing at any particular
13 rate?

14 MR. CROW: I assume they are. They haven't
15 submitted --

16 MR. FOGLEMAN: At that last hearing y'all said
17 something about you hated to have them sitting around
18 there at three hundred dollars an hour.

19 MR. STIDHAM: They're billing us. I don't know
20 exactly what the rate is.

21 THE COURT: Gentlemen, this is a bad time to be
22 discussing this. If y'all recall, I indicated that if
23 you asked the Court, the Court would consider
24 approving expert fees for you. And, Dan, you told me
25 that y'all had managed to find somebody yourself, or

1 you did, Greg. I've never been asked to approve --
2 and I'm sure not going to pay somebody from California
3 three hundred dollars an hour.

4 MR. STIDHAM: We explained that to these people
5 ahead of time.

6 THE COURT: Y'all indicated to me you didn't want
7 the state hospital to do it --

8 MR. CROW: -- That was in reference to Doctor
9 Wilkins.

10 THE COURT: Well, he's a volunteer, as I
11 understand it.

12 MR. CROW: I haven't had a fee discussion with
13 any of them.

14 MR. STIDHAM: I told them that I couldn't
15 guarantee that they would be paid anything. I told
16 them I couldn't guarantee that I would be paid
17 anything.

18 THE COURT: Val, for you all's cases, if you're
19 going to want outside experts, get prior approval of
20 the Court, or I'm not going to pay them a dime.

21 (RECESS)

22 (CHAMBERS CONFERENCE CONTINUED)

23 MR. DAVIS: At this time the State would rest,
24 save for rebuttal.

25 MR. STIDHAM: Since the State has rested, we