

Aug 22 11 04:55p

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ANN HUDSON, CIRCUIT CLERK

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

vs.

CR1993-0450

CHARLES JASON BALDWIN

DEFENDANT

GUILTY PLEA STATEMENT PURSUANT TO ALFORD

I am the defendant in the above styled case, and represent to the Court:

1. The above is my full and true name. I am mentally competent to make this statement and not under the influence of any drug or alcohol. I understand, should the plea of guilty pursuant to *Alford* (hereinafter referred to as "guilty plea") herein tendered not be accepted by the Court, and trial follow, that admissions made herein will not be admissible against me at trial.

2. I am represented by a lawyer, whose name is : J. Blake Hendrix

3. I plead "GUILTY" to the charge(s) of:
- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
 - (b) MURDER FIRST DEGREE A.C.A.5-10-102,
 - (c) MURDER FIRST DEGREE A.C.A.5-10-102.

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4. I have told my lawyer all the facts and circumstances known to me about the charge(s) set forth in the information. I believe that my lawyer is fully informed on all matters. My lawyer has counseled and advised with me on the nature of each charge and on all possible defenses.

5. I understand that I may plead "Not Guilty" to any offense charged. If I choose to plead "Not Guilty," I am guaranteed the right: (a) to a speedy and public trial by an impartial jury, (b) to compel the State to prove my guilt beyond a reasonable doubt, (c) to see, hear and cross-examine all witnesses called to testify against me, (d) to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor, (e) to have the assistance of a lawyer at all stages of the proceedings, (f) to choose to testify or not, and if I choose not to testify, that fact cannot be held against me, and (g) if I do not have funds, and cannot obtain funds to employ a lawyer of my own choice, the Court will appoint a lawyer to represent me at no cost to me, unless ordered by the Court as part of my sentence.

6. My lawyer informed me, and I understand that the punishment provided by law for the offense(s) charged against me is:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life;
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life;
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life.

7. I state and declare to the Court that no officer, or agent of any law enforcement agency, nor any other person, has abused or mistreated me, or used or threatened any violence or physical or mental duress, or made or threatened any intimidation or threat of any kind in order to get me to plead guilty; or made any promise of any kind to me, or within my knowledge to anyone else, that I will receive a lesser sentence, or probation, suspension, or any other form of leniency if I plead guilty, except as to the recommendation contained in the sentence agreement.

8. I believe that my lawyer has competently done all that anyone could do to counsel and assist me. I AM SATISFIED WITH THE ADVICE, GUIDANCE AND ASSISTANCE THAT MY LAWYER HAS GIVEN ME.

9. I plead "GUILTY" and respectfully request the Court to accept and enter my plea of "GUILTY"; although, I maintain my innocence as allowed in *North Carolina v. Alford*, 400 U.S. 25 (1970), *State v. Davis*, 366 Ark. 401 (2006), I accept that the State could present sufficient evidence for a jury to find guilt beyond reasonable doubt.

10. I OFFER MY PLEA OF "GUILTY" FREELY AND VOLUNTARILY AND OF MY OWN FREE WILL AND ACCORD, with full understanding of all matters set forth in the information and in this statement; this plea of "Guilty" is with the knowledge and consent of my lawyer.

Signed in presence of my lawyer this 19th day of August 2011.

Birthdate: 4 / 11 / 77

Address: _____


Charles Jason Baldwin, Defendant

I have fully explained the within statement to the defendant and truthfully answered any questions he had. He signed the statement in my presence.


J. Blake Hendrix

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

vs.

CR 1993-0450

CHARLES JASON BALDWIN

DEFENDANT

PLEA AND SENTENCE RECOMMENDATION

The defendant, his lawyer, and the Prosecuting Attorney hereby submit the following Sentence Recommendation to the Court which was reached pursuant to discussions initiated by and between counsel in this case. All parties agree to fully inform the Court of all facts of the case, both aggravating and mitigating, and of any criminal history of the defendant.

Defendant agrees to plead guilty to:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102.

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The Prosecuting Attorney agrees to recommend:

- XX 1. As to charges (a), 216 months and 78 days (18 years and 78 days) imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.
- XX 2. As to charges (b) and (c), 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: It is the parties' intent that the sentences for (a), (b), and (c) run concurrent with one another.

Date: 8-19-11
Scott Ellington, Prosecuting Attorney

By SCOTT ELLINGTON

Charles Jason Baldwin
Charles Jason Baldwin, Defendant

J. Blake Hendrix
J. Blake Hendrix

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PROSECUTOR'S SHORT REPORT OF CIRCUMSTANCES



This information is provided pursuant to A.C.A. § 12-27-113 (C) (1) & (2) (Supp.1993)

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ANN HUDSON, CIRCUIT CLERK

CROTHERS COUNTY, AR
SID #: 839491

Defendant's Name: Baldwin, Charles Jason

Case # 19 98-0450

I. SUMMARY OF THE FACTS: With the purpose of causing death to three persons, the defendant caused the death of three persons.

II. FACTORS.

AGGRAVATING

MITIGATING


- () Production or use of any weapon during the criminal episode.
- () Threat or violence toward witness(es) or victim(s)
- (X) Defendant knew or had reason to know the victims were particularly vulnerable (aged, handicapped, very young, etc.)
- () Ability to make restitution, reparation or return property and failed to do so.
- () Violation of position of public trust or recognized professional ethics.
- () Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.
- () There is a single conviction for a crime involving multiple victims or incidents.
- () Defendant on probation or parole at the time of the crime.
- () Persistent involvement in similar criminal offenses.
- () Repetition of behavior pattern which contributes to criminal conduct, e.g., return to drug or alcohol abuse.
- () Prior record of similar offenses.
- () Serious prior record
- () Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.
- () New criminal activity while on pretrial release.
- () Persistent criminal misconduct while under supervision.
- () Efforts to conceal crime
- () Other:

- () Victim(s) provoked the crime to substantial degree or other evidence that misconduct by victim contributed to the criminal episode.
- () Cooperation with criminal justice agencies in resolution or other criminal activity.
- () Effort to make restitution or reparation(particularly before required to do so by sentencing).
- () Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.
- () Special effort on part of perpetrator to minimize the harm or risk.
- () Peripheral involvement in criminal episode (e.g., passive accessory).
- () Evidence of withdrawal, duress, necessity or lack of sustained criminal intent or diminished mental capacity (e.g., mental retardation) which is insufficient to constitute a defense but is indicative of reduced culpability.
- () No prior parole or probation difficulty.
- () Efforts to deal with problems associated with past criminal conduct.
- () No, or minimal, prior record.
- () Other:

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Circuit Court Clerk

SIGNED 
Circuit Judge

SIGNED SCOTT ELLINGTON
Prosecuting Attorney or Deputy

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PHIL HUDSON, CIRCUIT CLERK

WESTERN DISTRICT OF ARKANSAS

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

[Handwritten signature]
PLAINTIFF

STATE OF ARKANSAS

vs.

CR 1993-0450

CHARLES JASON BALDWIN

DEFENDANT

ORDER OF SUSPENDING IMPOSITION OF SENTENCE,
AND/OR JUDGMENT AND COMMITMENT

Now, on this 19th day of August, 2011, the State of Arkansas appears by Scott Ellington, Prosecuting Attorney, or his deputy. Defendant appears in person with his attorney, J. Blake Hendrix. The Court informed defendant of the nature of the charge(s); his constitutional and legal rights; the effect of a guilty plea pursuant to Alford (hereinafter referred to as "guilty plea") upon those rights; and, his right to make a statement before sentencing. Whereupon, the Court makes the following findings:

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Defendant is charged with the offense(s) of:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102.

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[Signature]
Ann Hudson
Circuit Court Clerk

~~XX~~ To this charge(s), defendant voluntarily, intelligently, and knowingly entered a plea of ~~XX~~ (Guilty) and acknowledged a factual basis for such a plea. Defendant further acknowledged that the plea was pursuant to a negotiated sentence recommendation, which is acknowledged, and understood by the defendant. The Court hereby accepts the defendant's plea of guilty and the sentence recommendation by the State.

There being no legal cause shown by the defendant, upon request, why judgment should not now be pronounced, **IT IS THEREFORE, BY THE COURT, CONSIDERED, ORDERED AND ADJUDGED THAT THE DEFENDANT BE AND IS HEREBY:**

~~XX~~ 1. As to charges (a), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.

~~XX~~ 2. As to charges (b) and (c), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: The sentences for (a), (b), and (c) run concurrent with one another.

SUSPENSION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:


- 1. You must not commit a criminal offense punishable by imprisonment.

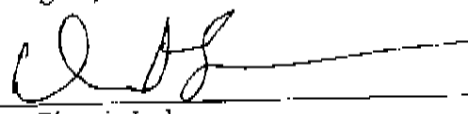
2. You must not use, sell, distribute, or possess any controlled substance, or associate with any person who is participating in or is known to participate in the illegal use, sale, distribution or possession of controlled substances, or be present in places where such persons congregate. You may use or possess controlled substances pursuant to a legitimate prescription from a physician.
3. You must not associate with persons who have been convicted of felonies (except Damien Echols) or persons who are engaged in criminal activity.
4. You must not purchase, own, control or possess any firearm or other prohibited deadly weapon at any time, or be in the company of any person possessing the same (with the exception of professionally licensed security provided for Mr. Baldwin).
5. You must be gainfully employed or enrolled as a student at all times, pay your share of household expenses, support your legal dependents and pay all court ordered child support.
6. You agree to waive extradition from any jurisdiction in or outside the United States of America and to not contest any effort to return you to the state of Arkansas.
7. You must comply with the special conditions imposed by the court.
8. If the Court revokes your suspension for your violating a condition, it may impose on you a sentence of up to 252 months and 287 days (21 years and 287 days) in Arkansas Department of Correction.

SPECIAL CONDITIONS
(Applicable only if checked)

1. You must submit your person, place of residence, motor vehicles, or other property to search and seizure at any time, day or night, with or without a search warrant, whenever requested by any supervising officer or law enforcement officer.

I acknowledge receipt of the above on 19th day of August, 2011.


Charles Jason Baldwin, Defendant


Circuit Judge

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ANN HUDSON, CIRCUIT CLERK

Defendant's Full Name: BALDWIN, CHARLES JASON

JUDGMENT AND COMMITMENT ORDER
IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT, CRIMINAL DIVISION

Handwritten signature of Ann Hudson

On 8/19/2011 the defendant appeared before the Court, was advised of the nature of the charges(s), of constitutional and legal rights, of the effect of a guilty plea, pursuant to North Carolina v. Alford, 400 U.S. 25 (1970) and Rules 24.3-24.6 of the Arkansas Rules of Criminal Procedure, upon those rights, upon those rights, and of the right to make a statement before sentencing. The Court made the following findings:

Defendant's Full Name: BALDWIN, CHARLES JASON
Date Of Birth: 4/11/1977
Race: WHITE
Sex: MALE
SID #: 639491
Defendant's Attorney: J. BLAKE HENDRIX
Prosecuting Attorney or Deputy: SCOTT ELLINGTON
Change Of Venue From: N/A

Defendant was represented by: [X] private counsel [] appointed counsel
[] public defender [] himself/herself

Defendant made a voluntary, knowing and intelligent waiver of the right to counsel: N/A

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Ann Hudson
Circuit Court Clerk

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.

TOTAL NUMBER OF COUNTS: 3

Offense # 1

Docket #: CR 1993-0450
Arrest Tracking #: 174069

A.C.A.# of Offense: 5-10-102
Name Of Offense: MURDER I
Seriousness Level Of Offense: N/A, pre-dates grid
Criminal History Score: 0
Presumptive Sentence: N/A, pre-dates grid
Sentence is a departure from the sentencing grid: No, pre-dates grid
Offense is a Felony
Classification of Offense: Y
Sentence Imposed: 216 months and 78 days. Followed by
Suspended Imposition of Sentence: 120 months 0 days.
Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: (a) (b) (c) (d).
Sentence was enhanced by months pursuant to A.C.A.
Defendant attempted solicited conspired to commit the offense.
Offense Date: 5/5/1993

Number of Counts: 1
Defendant was on probation parole at time of conviction.
Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred
Defendant voluntarily, intelligently, and knowingly entered a
[X] negotiated plea of guilty.
[] plea directly to the court of guilty or nolo contendere.
Defendant
[] entered a plea as shown above and was sentenced by a jury.
[] was found guilty of said charge(s) by the court, and sentenced by
[] was found guilty at a jury trial, and sentenced by the court a jury.

Defendant's Full Name Baldwin, Charles Jason

Offense # 2

Docket #: CR 1993-0450
Arrest Tracking #: 174069

A.C.A.# of Offense: 5-10-102
 Name Of Offense: MURDER I
 Seriousness Level Of Offense: N/A, pre-dates grid
 Criminal History Score: 0
 Presumptive Sentence: N/A, pre-dates grid
 Sentence is a departure from the sentencing grid: No, pre-dates grid
 Offense is a Felony
 Classification of Offense: Y
 Sentence Imposed: 216 months and 78 days.
 Suspended Imposition of Sentence: _____ months.
 Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections ___(a) ___(b) ___(c) ___(d).
 Sentence was enhanced by _____ months pursuant to A.C.A. _____.
 Defendant ___ attempted ___ solicited ___ conspired to commit the offense.
 Offense Date: 5/5/1993
 Number of Counts: 1
 Defendant was on ___ probation ___ parole at time of conviction.
 Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
 Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____
 Defendant voluntarily, intelligently, and knowingly entered a
 X negotiated plea of guilty.
 ___ plea directly to the court of guilty or nolo contendere.
 Defendant
 ___ entered a plea as shown above and was sentenced by a jury.
 ___ was found guilty of said charge(s) by the court, and sentenced by
 ___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury.

Offense # 3

Docket #: CR 1993-0450
Arrest Tracking #: 174069

A.C.A.# of Offense: 5-10-102
 Name Of Offense: MURDER I
 Seriousness Level Of Offense: N/A, pre-dates grid
 Criminal History Score: 0
 Presumptive Sentence: N/A, pre-dates grid
 Sentence is a departure from the sentencing grid: No, pre-dates grid
 Offense is a Felony
 Classification of Offense: Y
 Sentence Imposed: 216 months and 78 days.
 Suspended Imposition of Sentence: _____ months.
 Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: ___(a) ___(b) ___(c) ___(d).
 Sentence was enhanced by _____ months pursuant to A.C.A. _____.
 Defendant ___ attempted ___ solicited ___ conspired to commit the offense.
 Offense Date: 5/5/1993
 Number of Counts: 1
 Defendant was on ___ probation ___ parole at time of conviction.
 Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
 Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____
 Defendant voluntarily, intelligently, and knowingly entered a
 X negotiated plea of guilty.
 ___ plea directly to the court of guilty or nolo contendere.
 Defendant
 ___ entered a plea as shown above and was sentenced by a jury.
 ___ was found guilty of said charge(s) by the court, and sentenced by
 ___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury.

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Defendant's full name : Baldwin, Charles Jason

Indicate which sentences are to run consecutively:

Death Penalty: Execution Date:
Total time to serve on all offenses listed above: 216 months and 78 days.
Time to be served at : Arkansas Department of Correction
Jail Time Credit: 216 months and 78 days.

Defendant was convicted of a target offense under the Community Punishment Act. The Court hereby orders that the Defendant be judicially transferred to the Department of Community Correction (D.C.C.). No Failure to meet the criteria or violation of the rules of the D.C.C. could result in transfer to the A.D.C.

Defendant was convicted of a "drug crime," as defined by A.C.A. 12-17-101 et seq. No

Fines Court Costs DNA Sample Fee (A.C.A. 12-12-1118)
Drug Crime Special Assessment (A.C.A. 12-17-106) Booking and Admin. Fee (A.C.A. 12-41-505)
Public Defender User Fee (A.C.A. 16-87-213)

A judgment of restitution is hereby entered against the Defendant in the amount and terms as show below:
Amount: Due immediately Installments of:
Payment to be made to:
If multiple beneficiaries, give names and show payment priority.

Defendant has been adjudicated guilty of an offense requiring registration as a sex offender, and is ordered to complete the Sex Offender Registration Form: No

Defendant adjudicated guilty of an offense requiring registration as a sex offender has been adjudicated guilty of a prior sex offense under a separate case number: No

Defendant is alleged to be a Sexually Violent Predator, and is ordered to undergo an evaluation at a facility designated by the Department of Correction pursuant to A.C.A. 12-12-918: No

Defendant has committed an aggravated sex offense, as defined in A.C.A. 12-12-903. No

Defendant was adjudicated guilty of a felony offense, a misdemeanor sexual offense, or a repeat offense (as Defined in A.C.A. 12-12-1103), and is ordered to have a DNA sample drawn at: No

Defendant was adjudicated guilty of a domestic-violence offence. ___ Yes ___ X ___ No

If yes, identify the relationship of the victim to the Defendant. _____

If no, was Defendant originally charged with a domestic-violence related offense? ___ Yes ___ X ___ No

If yes, state the name of the offense _____

For conditions of suspended sentence, see the Order of suspending imposition of sentence, and/or judgment and commitment

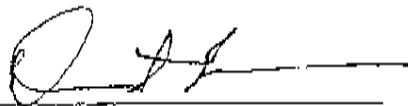
Defendant was informed of the right to appeal: N/A

Appeal Bond: \$ N/A

The County Sheriff is hereby ordered to transport the Defendant to: the Arkansas Department of Correction.

The short report of circumstances attached hereto is approved.

Date: Circuit Judge: DAVID LASER

Signature: 

I certify this is a true and correct record of this Court.

Date: Circuit Clerk/Deputy: 

(Seal)

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ANN HUDSON, CIRCUIT CLERK
CRAIGHEAD COUNTY, AR

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

vs.

No. CR 93-450 A

DAMIEN ECHOLS

FILED

CHARLES JASON BALDWIN

AUG 19 2011

DEFENDANTS

11:50 AM
Ann Hudson
Circuit Court Clerk

CONDITIONAL ORDER FOR NEW TRIAL

On this the 19th day of August 2011, came the defendants and their counsel requesting this Court for the opportunity to enter a negotiated plea in these matters, and the Court does find and order the following:

1. This matter is currently before the Court as a result of Opinions and Orders issued by the Arkansas Supreme Court on November 4, 2010, as they relate to the above Defendants in this matter. Those orders instructed that the Court "shall hear Echols's motion for a new trial and consider the DNA-test results 'with all other evidence in the case regardless of whether the evidence was introduced at trial' to determine if Echols has 'establish[ed] by compelling evidence that a new trial would result in acquittal.'" *Echols v. State*, 210 Ark. 417 (2010). *See also Baldwin v. State*, 210 Ark. 412 (2010); *Misskelley v. State*, 210 Ark. 415 (2010). The language cited by the Arkansas Supreme Court is outlined in Ark. Code Ann. § 16-112-208(e)(3). This court finds that it has jurisdiction of the parties and issues herein.
2. In 2002, Defendants Echols and Baldwin filed, separately, motions for DNA testing under Ark. Code Ann. § 16-112-201, et seq. Subsequently, both Echols and Baldwin filed, separately, Petitions for Writs of Habeas Corpus under Ark. Code Ann § 16-112-201, et seq., alleging they were entitled to new trials based on forensic testing, and other matters. The trial court denied the

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motions, and the defendants appealed. As stated above, the Arkansas Supreme Court reversed and remanded. The petitions are, therefore, properly before this Court.

3. The parties have advised the Court that they have agreed to a disposition of the petitions and that if the Court vacates the convictions, the defendants will enter guilty pleas pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) in order to resolve these cases. The parties further agree that the record before this Court is sufficient for the Court to grant or deny relief under the guidance of *Echols v. State*, in which the Arkansas Supreme Court directs the trial court to not only consider any DNA-test results but "all other evidence in this case . . . whether inculpatory or exculpatory, that is relevant to a determination of whether the petitioner[s] established, by compelling evidence, that a new trial would result in acquittal."
4. As to the negotiated pleas, the parties agree to the following conditions: a) the entry of guilty pleas to three counts of first-degree murder under the terms of *Alford* and Ark. R. Cr. Pro. 24.3 thru 24.6; b) the Court sentences all three defendants to time served, followed by a ten-year term of suspended imposition of sentence; c) the immediate release of the defendants from the Arkansas Department of Correction; d) that these conditions will be satisfied on Friday, August 19, 2011, and; e) the petitioners agree to dismiss any and all outstanding claims and proceedings relating to this matter, including, but not limited to, the appeals from the denials of their petitions filed under Ark. R. Cr. P. 37 presently pending before the Arkansas Supreme Court and the habeas corpus action filed by Defendant Echols in the United States District Court for the Eastern District of Arkansas. Further, the parties agree that that the recommended disposition is contingent on the acceptance of the same terms by Separate Defendant Misskelley in *State of Arkansas v. Jessie Misskelley*, No. CR 93-47 (Clay County, Western Division, Criminal Division). The parties further agree that the failure of any of these five conditions by any of these defendants, or the Separate Defendant Misskelley, or by the State of Arkansas, will result in the setting aside of the grant of new trials without further order of this Court; and, any findings,

orders, or statements by the Court expressly or implicitly setting aside the previous convictions and/or granting new trials for all three defendants will be completely rescinded.

5. The Court finds that all three defendants, with respective defense counsel in attendance, consent to and request this Court to set aside the previous verdicts and set all three cases for a new trial for the purpose of allowing all three defendants to enter the negotiated pleas discussed herein. The parties all note, and the Court agrees, that Act 1780 of 2001, under which these petitions were filed, contained a strong equitable component permitting a disposition "as may be appropriate," and this language was retained in the 2005 revisions. It is in the context of this legislative authorization that this Court analyzes and accepts this resolution.
6. The Court finds that the State of Arkansas only consents the setting aside of all judgments of conviction and the entry of orders of a new trial for each of the three defendants for the purpose of allowing all three defendants to immediately enter the negotiated pleas discussed herein.
7. The Court finds that, although compelling evidence exists that a new trial would result in an acquittal, there is also sufficient evidence of a jury to find guilt beyond a reasonable doubt. The Court has advised in open court all three defendants, and their respective defense counsel, that the Court also retains jurisdiction to rescind and hold void the setting aside of the previous judgments of conviction and setting for new trials if the conditions upon which these are based are not met. All three defendants and their counsel acknowledge their agreement with the Court.

IT IS SO ORDERED.



CIRCUIT JUDGE

Approved by:

Aug 22 11 05:00p

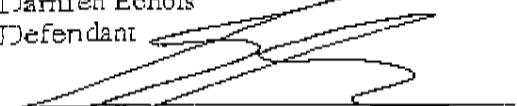
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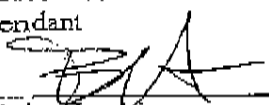
Tarmien Echols
Defendant



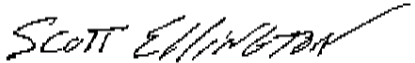
Stephen L. Braga
Defense Counsel for Echols



Charles Jason Baldwin
Defendant



J. Blake Hendrix
Defense Counsel for Baldwin



Scott Ellington
Prosecuting Attorney for 2nd Judicial District

Aug 22 11:05:00p

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ANN HUDSON, CIRCUIT CLERK

CRIMINAL DIVISION

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

vs.

CR1993-0450 *VA*

DAMIEN ECHOLS

DEFENDANT

GUILTY PLEA STATEMENT PURSUANT TO ALFORD

I am the defendant in the above styled case, and represent to the Court:

1. The above is my full and true name. I am mentally competent to make this statement and not under the influence of any drug or alcohol. I understand, should the plea of guilty pursuant to *Alford* (hereinafter referred to as "guilty plea") herein tendered not be accepted by the Court, and trial follow, that admissions made herein will not be admissible against me at trial.

2. I am represented by my lawyers, whose names are : Stephen Braga and Patrick Benca

3. I plead "GUILTY" to the charge(s) of:
(a) MURDER FIRST DEGREE A.C.A. 5-10-102,
(b) MURDER FIRST DEGREE A.C.A.5-10-102,
(c) MURDER FIRST DEGREE A.C.A.5-10-102.

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AUG 19 2011

11:50 AM

Ann Hudson
Circuit Court Clerk

4. I have told my lawyers all the facts and circumstances known to me about the charge(s) set forth in the information. I believe that my lawyers are fully informed on all matters. My lawyers have counseled and advised with me on the nature of each charge and on all possible defenses.

5. I understand that I may plead "Not Guilty" to any offense charged. If I choose to plead "Not Guilty," I am guaranteed the right: (a) to a speedy and public trial by an impartial jury, (b) to compel the State to prove my guilt beyond a reasonable doubt, (c) to see, hear and cross-examine all witnesses called to testify against me, (d) to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor, (e) to have the assistance of a lawyer at all stages of the proceedings, (f) to choose to testify or not, and if I choose not to testify, that fact cannot be held against me, and (g) if I do not have funds, and cannot obtain funds to employ a lawyer of my own choice, the Court will appoint a lawyer to represent me at no cost to me, unless ordered by the Court as part of my sentence.

6. My lawyers informed me, and I understand that the punishment provided by law for the offense(s) charged against me is:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life;
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life;
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY: imprisonment for not less than 10 nor more than 40 years or Life.

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

PLAINTIFF

vs.

CR 1993-0450P

DAMIEN ECHOLS

DEFENDANT

PLEA AND SENTENCE RECOMMENDATION

The defendant, his lawyers, and the Prosecuting Attorney hereby submit the following Sentence Recommendation to the Court which was reached pursuant to discussions initiated by and between counsel in this case. All parties agree to fully inform the Court of all facts of the case, both aggravating and mitigating, and of any criminal history of the defendant.

Defendant agrees to plead guilty to:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102.
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102.
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102.

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Ann Hudson
Circuit Court Clerk

The Prosecuting Attorney agrees to recommend:

- XX 1. As to charges (a), 216 months and 78 days (18 years and 78 days) imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.
- XX 2. As to charges (b) and (c), 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: It is the parties' intent that the sentences for (a), (b), and (c) run concurrent with one another.

Date: 8/19/11
Scott Ellington, Prosecuting Attorney

By Scott Ellington

Damien Echols
Damien Echols, Defendant

Stephen Braga
Stephen Braga

Patrick Benca
Patrick Benca

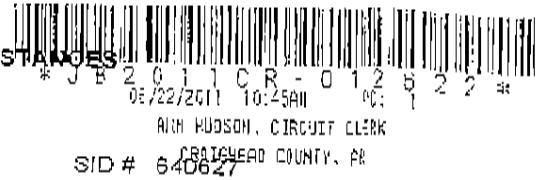
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SCOTT ELLINGTON PROS ATTY

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p.18

PROSECUTOR'S SHORT REPORT OF CIRCUMSTANCES



This information is provided pursuant to A.C.A § 12-27-113 (C) (1) & (2) (Supp.1993)

Defendant's Name: Echols, Damien

Case # 1993-0450A

I. SUMMARY OF THE FACTS: With the purpose of causing death to three persons, the defendant caused the death of three persons.

II. FACTORS:

AGGRAVATING

MITIGATING

- List of aggravating and mitigating factors including: Production or use of any weapon during the criminal episode, Threat or violence toward witness(es) or victim(s), Defendant knew or had reason to know the victims were particularly vulnerable, Ability to make restitution, Violation of position of public trust or recognized professional ethics, Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime, There is a single conviction for a crime involving multiple victims or incidents, Defendant on probation or parole at the time of the crime, Persistent involvement in similar criminal offenses, Repetition of behavior pattern which contributes to criminal conduct, Prior record of similar offenses, Serious prior record, Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted, New criminal activity while on pretrial release, Persistent criminal misconduct while under supervision, Efforts to conceal crime, Other:

FILED

AUG 19 2011

11:50 AM

Ann Hudson Circuit Court Clerk

SIGNED [Signature] Circuit Judge

SIGNED SCOTT ELLINGTON Prosecuting Attorney or Deputy



08/22/2011 10:45AM PG: 2

ANN HUDSON, CIRCUIT CLERK

CRIMINAL DIVISION, ARKANSAS COUNTY, AR

[Handwritten signature]
PLAINTIFF

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

STATE OF ARKANSAS

vs.

CR 1993-0450A

DAMIEN ECHOLS

DEFENDANT

ORDER OF SUSPENDING IMPOSITION OF SENTENCE,
AND/OR JUDGMENT AND COMMITMENT

Now, on this 19th day of August, 2011, the State of Arkansas appears by Scott Ellington, Prosecuting Attorney, or his deputy. Defendant appears in person with his attorneys, Stephen Braga and Patrick Benca. The Court informed defendant of the nature of the charge(s); his constitutional and legal rights; the effect of a guilty plea pursuant to Alford (hereinafter referred to as "guilty plea") upon those rights; and, his right to make a statement before sentencing. Whereupon, the Court makes the following findings:

Defendant is charged with the offense(s) of:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (b) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (c) MURDER FIRST DEGREE A.C.A. 5-10-102.

FILED

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11:50 AM
Ann Hudson
Circuit Court Clerk

XX To this charge(s), defendant voluntarily, intelligently, and knowingly entered a plea of XX (Guilty) and acknowledged a factual basis for such a plea. Defendant further acknowledged that the plea was pursuant to a negotiated sentence recommendation, which is acknowledged, and understood by the defendant. The Court hereby accepts the defendant's plea of guilty and the sentence recommendation by the State.

There being no legal cause shown by the defendant, upon request, why judgment should not now be pronounced, **IT IS THEREFORE, BY THE COURT, CONSIDERED, ORDERED AND ADJUDGED THAT THE DEFENDANT BE AND IS HEREBY:**

XX 1. As to charges (a), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.

XX 2. As to charges (b) and (c), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: The sentences for (a), (b), and (c) run concurrent with one another.

SUSPENSION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1. You must not commit a criminal offense punishable by imprisonment.

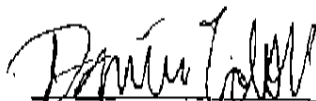
2. You must not use, sell, distribute, or possess any controlled substance, or associate with any person who is participating in or is known to participate in the illegal use, sale, distribution or possession of controlled substances, or be present in places where such persons congregate. You may use or possess controlled substances pursuant to a legitimate prescription from a physician.
3. You must not associate with persons who have been convicted of felonies (except Charles Jason Baldwin) or persons who are engaged in criminal activity.
4. You must not purchase, own, control or possess any firearm or other prohibited deadly weapon at any time, or be in the company of any person possessing the same (with the exception of professionally licensed security provided for Mr. Echols).
5. You must be gainfully employed or enrolled as a student at all times, pay your share of household expenses, support your legal dependents and pay all court ordered child support.
6. You agree to waive extradition from any jurisdiction in or outside the United States of America and to not contest any effort to return you to the state of Arkansas.
7. You must comply with the special conditions imposed by the court.
8. If the Court revokes your suspension for your violating a condition, it may impose on you a sentence of up to 252 months and 287 days (21 years and 287 days) in Arkansas Department of Correction.

SPECIAL CONDITIONS

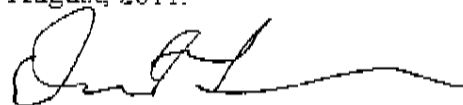
(Applicable only if checked)

1. You must submit your person, place of residence, motor vehicles, or other property to search and seizure at any time, day or night, with or without a search warrant, whenever requested by any supervising officer or law enforcement officer.

I acknowledge receipt of the above on 19th day of August, 2011.



Damien Echols, Defendant



Circuit Judge

Aug 22 11 05:02p

SCOTT ELLINGTON PROS ATTY

8703364011

p.21



08/22/2011 10:45AM PG. 3

ANN HUDSON, CIRCUIT CLERK
CRAIGHEAD COUNTY, AR

Defendant's Full Name: ECHOLS, DAMIEN

JUDGMENT AND COMMITMENT ORDER
IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT, CRIMINAL DIVISION

On 8/19/2011 the defendant appeared before the Court, was advised of the nature of the charges(s), of constitutional and legal rights, of the effect of a guilty plea, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) and Rules 24.3-24.6 of the Arkansas Rules of Criminal Procedure, upon those rights, and of the right to make a statement before sentencing. The Court made the following findings.

Defendant's Full Name.....: ECHOLS, DAMIEN
Date Of Birth.....: 12/11/1974
Race.....: WHITE
Sex.....: MALE
SID #.....: 640627
Defendant's Attorney.....: STEPHEN BRAGA AND PATRICK BENCA
Prosecuting Attorney or Deputy.....: SCOTT ELLINGTON
Change Of Venue From.....: N/A

Defendant was represented by: private counsel appointed counsel
 public defender himself/herself

Defendant made a voluntary, knowing and intelligent waiver of the right to counsel:
N/A

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.

TOTAL NUMBER OF COUNTS: 3

Offense # 1

Docket #: CR 1993-04501A
Arrest Tracking #: 19683

A.C.A.# of Offense: 5-10-102
Name Of Offense: MURDER I
Seriousness Level Of Offense: N/A, pre-dates grid
Criminal History Score: 0
Presumptive Sentence: N/A, pre-dates grid
Sentence is a departure from the sentencing grid: No, pre-dates grid
Offense is a Felony
Classification of Offense: Y
Sentence Imposed: 216 months and 78 days. Followed by
Suspended Imposition of Sentence. 120 months 0 days.
Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: ___(a) ___(b) ___(c) ___(d).
Sentence was enhanced by ___ months pursuant to A.C.A. _____.
Defendant ___ attempted ___ solicited ___ conspired to commit the offense.
Offense Date: 5/5/1993
Number of Counts: 1
Defendant was on ___ probation ___ parole at time of conviction.
Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____
Defendant voluntarily, intelligently, and knowingly entered a
___X___ negotiated plea of guilty.
___ plea directly to the court of guilty or nolo contendere.
Defendant
___ entered a plea as shown above and was sentenced by a jury.
___ was found guilty of said charge(s) by the court, and sentenced by
___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury.

FILED

AUG 19 2011
11:50 AM
Ann Hudson
Circuit Court Clerk

Defendant's Full Name : Echols, Damien

Offense # 2

Docket #: CR 1993-0450
Arrest Tracking # : 19683

A.C.A.# of Offense: 5-10-102

Name Of Offense: MURDER I

Seriousness Level Of Offense: N/A, pre-dates grid

Criminal History Score: 0

Presumptive Sentence: N/A, pre-dates grid

Sentence is a departure from the sentencing grid: No, pre-dates grid

Offense is a Felony

Classification of Offense: Y

Sentence Imposed: 216 months and 78 days.

Suspended Imposition of Sentence: ___ months.

Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: ___(a) ___(b) ___(c) ___(d).

Sentence was enhanced by ___ months pursuant to A.C.A. _____.

Defendant ___ attempted ___ solicited ___ conspired to commit the offense.

Offense Date: 5/5/1993

Number of Counts: 1

Defendant was on ___ probation ___ parole at time of conviction.

Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No

Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____

Defendant voluntarily, intelligently, and knowingly entered a

X negotiated plea of guilty.

___ plea directly to the court of guilty or nolo contendere.

Defendant

___ entered a plea as shown above and was sentenced by a jury.

___ was found guilty of said charge(s) by the court, and sentenced by

___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury.

Offense # 3

Docket #: CR 1993-0450
Arrest Tracking # : 19683

A.C.A.# of Offense: 5-10-102

Name Of Offense: MURDER I

Seriousness Level Of Offense: N/A, pre-dates grid

Criminal History Score: 0

Presumptive Sentence: N/A, pre-dates grid

Sentence is a departure from the sentencing grid: No, pre-dates grid

Offense is a Felony

Classification of Offense: Y

Sentence Imposed: 216 months and 78 days.

Suspended Imposition of Sentence: ___ months.

Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: ___(a) ___(b) ___(c) ___(d).

Sentence was enhanced by ___ months pursuant to A.C.A. _____.

Defendant ___ attempted ___ solicited ___ conspired to commit the offense.

Offense Date: 5/5/1993

Number of Counts: 1

Defendant was on ___ probation ___ parole at time of conviction.

Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No

Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____

Defendant voluntarily, intelligently, and knowingly entered a

X negotiated plea of guilty.

___ plea directly to the court of guilty or nolo contendere.

Defendant

___ entered a plea as shown above and was sentenced by a jury.

___ was found guilty of said charge(s) by the court, and sentenced by

___ was found guilty at a jury trial, and sentenced by ___ the court ___ a jury.

Defendant's full name : Echols, Damien

Indicate which sentences are to run consecutively:

Death Penalty: Execution Date
Total time to serve on all offenses listed above: 216 months and 78 days.
Time is to be served at Arkansas Department of Correction
Jail Time Credit: 216 months and 78 days.

Defendant was convicted of a target offense under the Community Punishment Act. The Court hereby orders that the Defendant be judicially transferred to the Department of Community Correction (D.C.C.). No Failure to meet the criteria or violation of the rules of the D.C.C. could result in transfer to the A.D.C

Defendant was convicted of a "drug crime," as defined by A.C.A. 12-17-101 et seq. No

Fines Court Costs DNA Sample Fee (A.C.A. 12-12-1118)
Drug Crime Special Assessment (A.C.A. 12-17-106) Booking and Admin Fee (A.C.A. 12-41-505)
Public Defender User Fee (A.C.A. 16-87-213)

A judgment of restitution is hereby entered against the Defendant in the amount and terms as show below:
Amount: Due immediately Installments of:
Payment to be made to:
If multiple beneficiaries, give names and show payment priority:

Defendant has been adjudicated guilty of an offense requiring registration as a sex offender, and is ordered to complete the Sex Offender Registration Form: No
Defendant adjudicated guilty of an offense requiring registration as a sex offender has been adjudicated guilty of a prior sex offense under a separate case number: No
Defendant is alleged to be a Sexually Violent Predator, and is ordered to undergo an evaluation at a facility designated by the Department of Correction pursuant to A.C.A. 12-12-918: No

Defendant has committed an aggravated sex offense, as defined in A.C.A. 12-12-903. No
Defendant was adjudicated guilty of a felony offense, a misdemeanor sexual offense, or a repeat offense (as Defined in A.C.A. 12-12-1103), and is ordered to have a DNA sample drawn at: No

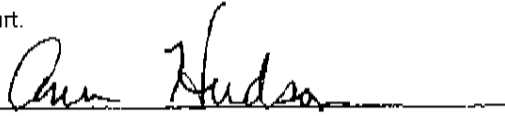
Defendant was adjudicated guilty of a domestic-violence offence. ___ Yes X No
If yes, identify the relationship of the victim to the Defendant. _____
If no, was Defendant originally charged with a domestic-violence related offense? ___ Yes X No
If yes, state the name of the offense _____

For conditions of suspended sentence, see the Order of suspending imposition of sentence, and/or judgment and commitment.

Defendant was informed of the right to appeal: N/A
Appeal Bond: \$ N/A
The County Sheriff is hereby ordered to transport the Defendant to: the Arkansas Department of Correction.

The short report of circumstances attached hereto is approved.

Date: 8/19/11 Circuit Judge: DAVID LASER Signature: 

I certify this is a true and correct record of this Court.
Date: Circuit Clerk/Deputy: 

(Seal)

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

*filed in
open ct.
DL*

FILED FOR RECORD

STATE OF ARKANSAS

2011 AUG 22 P 3:39 PLAINTIFF

vs.

No. CR 93-147

WILLIAMS KILBREATH, CLERK

JESSIE LLOYD MISSELLEY JR.

DEFENDANTS

CONDITIONAL ORDER FOR NEW TRIAL

On this the 19th day of August 2011, came the defendant and his counsel requesting this Court for the opportunity to enter a negotiated plea in these matters, and the Court does find and order the following:

1. This matter is currently before the Court as a result of Opinions and Orders issued by the Arkansas Supreme Court on November 4, 2010, as they relate to Jessie Misskelley and the other persons charged in this offense, Damien Echols and Charles Jason Baldwin in this matter. Those orders instructed that the Court "shall hear Echols's motion for a new trial and consider the DNA-test results 'with all other evidence in the case regardless of whether the evidence was introduced at trial' to determine if Echols has 'establish[ed] by compelling evidence that a new trial would result in acquittal.'" *Echols v. State*, 210 Ark. 417 (2010). The *Echols* order was adopted in *Misskelley v. State*, 210 Ark. 415 (2010). The language cited by the Arkansas Supreme Court is outlined in Ark. Code Ann. Section 16-112-208(e)(3). This court finds that it has jurisdiction of the parties and issues herein.
2. In 2002, Defendant Misskelley, along with Defendants Echols and Baldwin, filed separate motions for DNA testing under Ark. Code Ann. § 16-112-201, et seq. Subsequently, Misskelley, Echols and Baldwin filed separate Petitions for Writ of Habeas Corpus under Ark. Code Ann § 16-112-201, et seq., alleging they were entitled to a new trial based on the forensic testing and other matters. The trial court denied the motions, and the defendants appealed. As stated above, the Arkansas Supreme Court reversed and remanded. The petitions are, therefore, properly before this Court.


3. The parties, specifically including Misskelley, have advised the Court that they have agreed to a disposition of the petitions and that, if the Court vacates the convictions based on the allegations in the petitions and supporting evidence, which includes the record of all defendants' Rule 37 proceedings, the defendants will enter guilty pleas pursuant to *North Carolina v. Alford* pleas in order to resolve these cases. The parties further agree that the record before this Court is sufficient for the Court to grant or deny relief under the guidance of *Echols v. State*, in which the Arkansas Supreme Court directs the trial court to not only consider any DNA-test results but "all other evidence in this case . . . whether inculpatory or exculpatory, that is relevant to a determination of whether the petitioner established, by compelling evidence, that a new trial would result in acquittal."

4. As to the negotiated pleas, the parties agree to the following conditions: a) the entry of guilty pleas under the terms of *North Carolina v. Alford*, 400 U.S. 25 (1970) and Rules 24.3-24.6 of the Arkansas Rules of Criminal Procedure; b) the Court sentences the three defendants to time served, followed by a ten-year term of suspended imposition of sentence; c) the release of the defendants from the Arkansas Department of Correction; d) that these conditions will be satisfied on Friday August 19, 2011, and e) the petitioners agree to dismiss any and all outstanding claims and proceedings relating to this matter, including, but not limited to, the appeals from the denials of their petitions filed under Ark. R. Cr. P. 37 presently pending before the Arkansas Supreme Court and the habeas corpus action filed by Defendant Echols in the United States District Court for the Eastern District of Arkansas. Further, the parties agree that that the recommended disposition is contingent on the acceptance of the same terms by Separate Defendants Echols and Baldwin in *State of Arkansas v. Echols and Baldwin*, No. CR 93-450 (Craighead County, Western Division, Criminal Division). The parties further agree that the failure of any of these five conditions by any of the three defendants, or by the State of Arkansas, will result in the setting aside of the grant of new trials without further order of this Court and any findings, orders, or statements by the Court expressly or implicitly setting aside the previous convictions and/or granting new trials for all three defendants will be completely rescinded.


5. The Court finds that all three defendants, with respective defense counsel in attendance, consent to and request this Court to set aside the previous verdicts and set all three cases for a new trial for the purpose of allowing all three defendants to enter the negotiated pleas discussed herein. The parties all note, and the Court agrees, that Act 1780 of 2001, under which these petitions were filed, contained a strong equitable component permitting a disposition "as may be appropriate," and this language was retained in the 2005 revisions. It is in the context of this legislative authorization that this Court analyzes and accepts this resolution.
6. The Court finds that the State of Arkansas only consents to and requests the setting aside of all three judgments of conviction and the entry of orders of a new trial for each of the three defendants for the purpose of allowing all three defendants to immediately enter the negotiated pleas discussed herein.
7. The Court finds that, although compelling evidence exists that a new trial would result in acquittal, there also is sufficient evidence for a jury to find guilt beyond a reasonable doubt. The Court has advised in open court all three defendants, and their respective defense counsel, that the Court also retains jurisdiction to rescind and hold void the setting aside of the previous judgments of convictions and setting for new trials if the conditions upon which these are based are not met. All three defendants and their counsel acknowledge their agreement with the Court.

IT IS SO ORDERED.

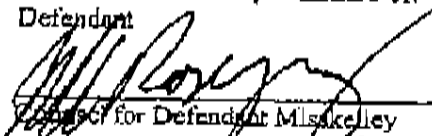
Approved by:



 CIRCUIT JUDGE
 Hon. David Laser



 JESSIE LLOYD MISKELLEY Jr.
 Defendant



 Counsel for Defendant Miskelley
 SCOTT ELLINGTON

 Scott Ellington
 Prosecuting Attorney for 2nd Judicial District

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS

FILED FOR WESTERN DISTRICT CRIMINAL DIVISION

2011 AUG 22 P 3:39

Filed in open Ct. 8/19/11 DJ

STATE OF ARKANSAS

PLAINTIFF

vs.

CR1993-0047

JESSIE L. MISSKELLEY

DEFENDANTS

GUILTY PLEA STATEMENT PURSUANT TO ALFORD

I am the defendant in the above styled case, and represent to the Court:

1. The above is my full and true name. I am mentally competent to make this statement and not under the influence of any drug or alcohol. I understand, should the plea of guilty pursuant to *Alford* (hereinafter referred to as "guilty plea") herein tendered not be accepted by the Court, and trial follow, that admissions made herein will not be admissible against me at trial.

2. I am represented by a lawyer, whose name is : Jeff Rosenzweig

3. I plead "GUILTY" to the charge(s) of:
(a) MURDER FIRST DEGREE A.C.A. 5-10-102 (Re: Michael Moore),
(b) MURDER SECOND DEGREE A.C.A. 5-10-103,
(c) MURDER SECOND DEGREE A.C.A. 5-10-103.

4. I have told my lawyer all the facts and circumstances known to me about the charge(s) set forth in the information. I believe that my lawyer is fully informed on all matters. My lawyer has counseled and advised with me on the nature of each charge and on all possible defenses.

5. I understand that I may plead "Not Guilty" to any offense charged. If I choose to plead "Not Guilty," I am guaranteed the right: (a) to a speedy and public trial by an impartial jury, (b) to compel the State to prove my guilt beyond a reasonable doubt, (c) to see, hear and cross-examine all witnesses called to testify against me, (d) to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor, (e) to have the assistance of a lawyer at all stages of the proceedings, (f) to choose to testify or not, and if I choose not to testify, that fact cannot be held against me, and (g) if I do not have funds, and cannot obtain funds to employ a lawyer of my own choice, the Court will appoint a lawyer to represent me at no cost to me, unless ordered by the Court as part of my sentence.

6. My lawyer informed me, and I understand that the punishment provided by law for the offense(s) charged against me is:

- (a) **MURDER FIRST DEGREE A.C.A. 5-10-102 Y FELONY:** imprisonment for not less than 10 nor more than 40 years or Life;
- (b) **MURDER SECOND DEGREE A.C.A. 5-10-103 B FELONY:** imprisonment for not less than 5 nor more than 20 years, or a fine not to exceed \$15,000, or by both imprisonment and a fine;
- (c) **MURDER SECOND DEGREE A.C.A. 5-10-103 B FELONY:** imprisonment for not less than 5 nor more than 20 years, or a fine not to exceed \$15,000, or by both imprisonment and a fine.

7. I state and declare to the Court that no officer, or agent of any law enforcement agency, nor any other person, has abused or mistreated me, or used or threatened any violence or physical or mental duress, or made or threatened any intimidation or threat of any kind in order to get me to plead guilty; or made any promise of any kind to me, or within my knowledge to anyone else, that I will receive a lesser sentence, or probation, suspension, or any other form of leniency if I plead guilty, except as to the recommendation contained in the sentence agreement.

8. I believe that my lawyer has competently done all that anyone could do to counsel and assist me. I AM SATISFIED WITH THE ADVICE, GUIDANCE AND ASSISTANCE THAT MY LAWYER HAS GIVEN ME.

9. I plead "GUILTY" and respectfully request the Court to accept and enter my plea of "GUILTY"; although, I maintain my innocence as allowed in *North Carolina v. Alford*, 400 U.S. 25 (1970), *State v. Davis*, 366 Ark. 401 (2006), I accept that the State could present sufficient evidence for a jury to find guilt beyond reasonable doubt.

10. I OFFER MY PLEA OF "GUILTY" FREELY AND VOLUNTARILY AND OF MY OWN FREE WILL AND ACCORD, with full understanding of all matters set forth in the information and in this statement; this plea of "Guilty" is with the knowledge and consent of my lawyer.

Signed in presence of my lawyer this 19th day of August, 2011.

Birthdate: 7/10/1975

Address: MARION, AR

Jessie Misskelley
Jessie Misskelley, Defendant

I have fully explained the within statement to the defendant and truthfully answered any questions he had. He signed the statement in my presence.

Jeff Rosenzweig
Jeff Rosenzweig

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION

FILED FOR RECORD

STATE OF ARKANSAS

PLAINTIFF AUG 22 P 3:41

vs.

CR 1993-0047

CLERK OF CLAY COUNTY CLERK

JESSIE L. MISSKELLEY

DEFENDANT

PLEA AND SENTENCE RECOMMENDATION

The defendant, his lawyer, and the Prosecuting Attorney hereby submit the following Sentence Recommendation to the Court which was reached pursuant to discussions initiated by and between counsel in this case. All parties agree to fully inform the Court of all facts of the case, both aggravating and mitigating, and of any criminal history of the defendant.

Defendant agrees to plead guilty to:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (b) MURDER SECOND DEGREE A.C.A. 5-10-103,
- (c) MURDER SECOND DEGREE A.C.A. 5-10-103.

The Prosecuting Attorney agrees to recommend:

- XX 1. As to charges (a), 216 months and 78 days (18 years and 78 days) imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.
- XX 2. As to charges (b) and (c), 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: It is the parties' intent that the sentences for (a), (b), and (c) run concurrent with one another.

Date: 8-19-11
Scott Ellington, Prosecuting Attorney

By Scott Ellington

Jessie Misskelley
Jessie Misskelley, Defendant

Jeff Rosenzweig
Jeff Rosenzweig

Handwritten: Closed is open the 8/19/11

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS
WESTERN DISTRICT
CRIMINAL DIVISION RECORD

STATE OF ARKANSAS

2011 AUG 22 P 3:41

PLAINTIFF

vs.

DEPT LUF P HILBREATH, CLERK
CR 1993-0047

JESSIE L. MISSKELLEY

BY _____

DEFENDANT

**ORDER OF SUSPENDING IMPOSITION OF SENTENCE,
AND/OR JUDGMENT AND COMMITMENT**

Now, on this 19th day of August, 2011, the State of Arkansas appears by Scott Ellington, Prosecuting Attorney, or his deputy. Defendant appears in person with his attorney, Jeff Rosenzweig. The Court informed defendant of the nature of the charge(s); his constitutional and legal rights; the effect of a guilty plea pursuant to Alford (hereinafter referred to "guilty plea") upon those rights; and, his right to make a statement before sentencing. Whereupon, the Court makes the following findings:

Defendant is charged with the offense(s) of:

- (a) MURDER FIRST DEGREE A.C.A. 5-10-102,
- (b) MURDER SECOND DEGREE A.C.A. 5-10-103,
- (c) MURDER SECOND DEGREE A.C.A. 5-10-103.

XX To this charge(s), defendant voluntarily, intelligently, and knowingly entered a plea of XX (Guilty) and acknowledged a factual basis for such a plea. Defendant further acknowledged that the plea was pursuant to a negotiated sentence recommendation, which is acknowledged, and understood by the defendant. The Court hereby accepts the defendant's plea of guilty and the sentence recommendation by the State.

There being no legal cause shown by the defendant, upon request, why judgment should not now be pronounced, **IT IS THEREFORE, BY THE COURT, CONSIDERED, ORDERED AND ADJUDGED THAT THE DEFENDANT BE AND IS HEREBY:**

XX 1. As to charges (a), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time, with imposition of additional sentence suspended for 120 months.

XX 2. As to charges (b) and (c), sentenced to 216 months and 78 days imprisonment in the Arkansas Department of Correction with credit for 216 months and 78 days jail time.

Note: The sentences for (a), (b), and (c) run concurrent with one another.

SUSPENSION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- 1. You must not commit a criminal offense punishable by imprisonment.

2. You must not use, sell, distribute, or possess any controlled substance, or associate with any person who is participating in or is known to participate in the illegal use, sale, distribution or possession of controlled substances, or be present in places where such persons congregate. You may use or possess controlled substances pursuant to a legitimate prescription from a physician.
3. You must not associate with persons who have been convicted of felonies (except immediate family members) or any persons who are engaged in criminal activity.
4. You must not purchase, own, control or possess any firearm or other prohibited deadly weapon at any time, or be in the company of any person possessing the same (with the exception of professionally licensed security provided to Mr. Misskelley).
5. You must be gainfully employed or enrolled as a student at all times, pay your share of household expenses, support your legal dependents and pay all court ordered child support.
6. You agree to waive extradition from any jurisdiction in or outside the United States of America and to not contest any effort to return you to the state of Arkansas.
7. You must comply with the special conditions imposed by the court.
8. If the Court revokes your suspension for your violating a condition, it may impose on you a sentence of up to **252 months and 287 days (21 years and 287 days)** in Arkansas Department of Correction.


SPECIAL CONDITIONS
(Applicable only if checked)

1. You must submit your person, place of residence, motor vehicles, or other property to search and seizure at any time, day or night, with or without a search warrant, whenever requested by any supervising officer or law enforcement officer.

I acknowledge receipt of the above on 19th day of August, 2011.



Jessie Misskelley, Defendant



Circuit Judge

Subrogated
8/19/11 *DL*

Defendant's Full Name: **MISSKELLEY, JR., JESSIE LOYD**

**JUDGMENT AND COMMITMENT ORDER
IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS
WESTERN DISTRICT, CRIMINAL DIVISION**

On 8/19/2011 the defendant appeared before the Court, was advised of the nature of the charges(s), of constitutional and legal rights, of the effect of a guilty plea, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970) and Rules 24.3-24.6 of the Arkansas Rules of Criminal Procedure, upon those rights, and of the right to make a statement before sentencing. The Court made the following findings:

Defendant's Full Name.....	MISSKELLEY, JR., JESSIE LOYD
Date Of Birth.....	7/10/1976
Race.....	WHITE
Sex.....	MALE
SID #.....	639490
Defendant's Attorney.....	JEFF ROSENZWEIG
Prosecuting Attorney or Deputy.....	SCOTT ELLINGTON
Change Of Venue From.....	N/A

FILED FOR RECORD
2011 AUG 22 P 3 39
CIRCUIT CLAY COUNTY ARKANSAS

Defendant was represented by private counsel appointed counsel
 public defender himself/herself

Defendant made a voluntary, knowing and intelligent waiver of the right to counsel:
N/A

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.

TOTAL NUMBER OF COUNTS: 3

Offense # 1

Docket #: **CR 1983-0047**
Arrest Tracking #: **174037**

A.C.A.# of Offense: **5-10-102**

Name Of Offense: **MURDER I**

Seriousness Level Of Offense: **N/A, pre-dates grid**

Criminal History Score: **0**

Presumptive Sentence: **N/A, pre-dates grid**

Sentence is a departure from the sentencing grid: **No, pre-dates grid**

Offense is a Felony

Classification of Offense: **Y**

Sentence Imposed: **216 months and 78 days. Followed by**

Suspended Imposition of Sentence: **120 months 0 days.**

Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-601, Subsections: (a) (b) (c) (d).

Sentence was enhanced by _____ months pursuant to A.C.A. _____.

Defendant attempted solicited conspired to commit the offense.

Offense Date: **5/5/1993**

Number of Counts: **1**

Defendant was on probation parole at time of conviction.

Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No

Age of the victim of the offense if he or she was under 16 years of age at the time the offense occurred _____

Defendant voluntarily, intelligently, and knowingly entered a

negotiated plea of guilty.

plea directly to the court of guilty or nolo contendere.

Defendant

entered a plea as shown above and was sentenced by a jury.

was found guilty of said charge(s) by the court, and sentenced by

was found guilty at a jury trial, and sentenced by _____ the court _____ a jury.

Defendant's Full Name : Misskelley, Jr., Joesie Loyd

Offense # 2

Docket #: CR 1993-0047
Arrest Tracking #: 174037

A.C.A.# of Offense: 5-10-103
Name Of Offense: MURDER II
Seriousness Level Of Offense: N/A, pre-dates grid
Criminal History Score: 0
Presumptive Sentence: N/A, pre-dates grid
Sentence is a departure from the sentencing grid: No, pre-dates grid
Offense is a Felony
Classification of Offense: B
Sentence Imposed: 216 months and 78 days.
Suspended Imposition of Sentence: _____ months.
Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: __ (a) __ (b) __ (c) __ (d).
Sentence was enhanced by _____ months pursuant to A.C.A. _____
Defendant _____ attempted _____ solicited _____ conspired to commit the offense.
Offense Date: 5/5/1993
Number of Counts: 1
Defendant was on _____ probation _____ parole at time of conviction.
Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____
Defendant voluntarily, intelligently, and knowingly entered a
 X negotiated plea of guilty.
_____ plea directly to the court of guilty or nolo contendere.
Defendant
_____ entered a plea as shown above and was sentenced by a jury.
_____ was found guilty of said charge(s) by the court, and sentenced by _____
_____ was found guilty at a jury trial, and sentenced by _____ the court _____ a jury.

Offense # 3

Docket #: CR 1993-0047
Arrest Tracking #: 174037

A.C.A.# of Offense: 5-10-103
Name Of Offense: MURDER II
Seriousness Level Of Offense: N/A, pre-dates grid
Criminal History Score: 0
Presumptive Sentence: N/A, pre-dates grid
Sentence is a departure from the sentencing grid: No, pre-dates grid
Offense is a Felony
Classification of Offense: B
Sentence Imposed: 216 months and 78 days.
Suspended Imposition of Sentence: _____ months.
Defendant was sentenced as an Habitual Offender under A.C.A. 5-04-501, Subsections: __ (a) __ (b) __ (c) __ (d).
Sentence was enhanced by _____ months pursuant to A.C.A. _____
Defendant _____ attempted _____ solicited _____ conspired to commit the offense.
Offense Date: 5/5/1993
Number of Counts: 1
Defendant was on _____ probation _____ parole at time of conviction.
Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence. No
Age of the victim of the offense if he or she was under 18 years of age at the time the offense occurred _____
Defendant voluntarily, intelligently, and knowingly entered a
 X negotiated plea of guilty.
_____ plea directly to the court of guilty or nolo contendere.
Defendant
_____ entered a plea as shown above and was sentenced by a jury
_____ was found guilty of said charge(s) by the court, and sentenced by _____
_____ was found guilty at a jury trial, and sentenced by _____ the court _____ a jury.

Defendant's full name : **Miskalley, Jr., Jessie Loyd**

Indicate which sentences are to run consecutively:

Death Penalty. Execution Date:

Total time to serve on all offenses listed above: **216 months and 78 days.**

Time to be served at : **Arkansas Department of Correction**

Jail Time Credit: **216 months and 78 days.**

Defendant was convicted of a target offense under the Community Punishment Act. The Court hereby orders that the Defendant be judicially transferred to the Department of Community Correction (D.C.C.). **No**
Failure to meet the criteria or violation of the rules of the D.C.C. could result in transfer to the A.D.C.

Defendant was convicted of a "drug crime," as defined by A.C.A. 12-17-101 *et seq.* **No**

Fines Court Costs
Drug Crime Special Assessment (A.C.A. 12-17-106)
Public Defender User Fee (A.C.A. 16-87-213)

DNA Sample Fee (A.C.A. 12-12-1118)
Booking and Admin. Fee (A.C.A. 12-41-505)

A judgment of restitution is hereby entered against the Defendant in the amount and terms as show below:

Amount: Due immediately Installments of:

Payment to be made to:
If multiple beneficiaries, give names and show payment priority:

Defendant has been adjudicated guilty of an offense requiring registration as a sex offender, and is ordered to complete the Sex Offender Registration Form: **No**

Defendant adjudicated guilty of an offense requiring registration as a sex offender has been adjudicated guilty of a prior sex offense under a separate case number: **No**

Defendant is alleged to be a Sexually Violent Predator, and is ordered to undergo an evaluation at a facility designated by the Department of Correction pursuant to A.C.A. 12-12-918: **No**

Defendant has committed an aggravated sex offense, as defined in A.C.A. 12-12-803. **No**

Defendant was adjudicated guilty of a felony offense, a misdemeanor sexual offense, or a repeat offense (as Defined in A.C.A. 12-12-1103), and is ordered to have a DNA sample drawn at: **No**

Defendant was adjudicated guilty of a domestic-violence offense. Yes X No

If yes, identify the relationship of the victim to the Defendant. _____

If no, was Defendant originally charged with a domestic-violence related offense? Yes X No

If yes, state the name of the offense _____

For conditions of suspended sentence, see the Order of suspending imposition of sentence, and/or judgment and commitment.

Defendant was informed of the right to appeal: **N/A**

Appeal Bond: **\$ N/A**

The County Sheriff is hereby ordered to transport the Defendant to: **the Arkansas Department of Correction.**

The short report of circumstances attached hereto is approved.

Date: 8/19/11 Circuit Judge: **DAVID LASER**

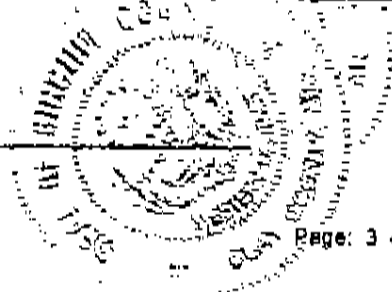
Signature: [Handwritten Signature]

I certify this is a true and correct record of this Court.

Date: 8/22/11 Circuit Clerk/Deputy: [Handwritten Signature]

(Seal)

Form Revised 5/2010



PROSECUTOR'S SHORT REPORT OF CIRCUMSTANCES

This information is provided pursuant to A.C.A § 12-27-113 (C) (1) & (2) (Supp.1993).

Defendant's Name: Misakelley, Jr., Jessie Loyd

SID #: 639490

Case # 1993-0047

I. SUMMARY OF THE FACTS: With the purpose of causing death to Michael Moore, defendant caused the death of Michael Moore; and, the defendant knowingly caused the death of two other persons under circumstances manifesting the extreme indifference to the value of human life.

II. FACTORS:

AGGRAVATING

MITIGATING

- () Production or use of any weapon during the criminal episode.
() Threat or violence toward witness(es) or victim(s)
(X) Defendant knew or had reason to know the victims were particularly vulnerable (egad, handicapped, very young, etc.)
() Ability to make restitution, reparation or return property and failed to do so.
() Violation of position of public trust or recognized professional ethics.
() Degree of property loss, personal injury or threatened personal injury substantially greater than characteristic for the crime.
() There is a single conviction for a crime involving multiple victims or incidents.
() Defendant on probation or parole at the time of the crime.
() Persistent involvement in similar criminal offenses.
() Repetition of behavior pattern which contributes to criminal conduct, e.g., return to drug or alcohol abuse.
() Prior record of similar offenses.
() Serious prior record
() Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.
() New criminal activity while on pretrial release.
() Persistent criminal misconduct while under supervision.
() Efforts to conceal crime.
() Other:

- () Victim(s) provoked the crime to substantial degree or other evidence that misconduct by victim contributed to the criminal episode.
() Cooperation with criminal justice agencies in resolution or other criminal activity.
() Effort to make restitution or reparation(particularly before required to do so by sentencing).
() Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.
() Special effort on part of perpetrator to minimize the harm or risk.
() Peripheral involvement in criminal episode (e.g., passive accessory).
() Evidence of withdrawal, duress, necessity or lack of a of sustained criminal intent or diminished mental capacity (e.g., mental retardation) which is insufficient to constitute a defense but is indicative of reduced culpability.
() No prior parole or probation difficulty.
() Efforts to deal with problems associated with past criminal conduct.
() No, or minimal, prior record.
() Other:

SIGNED

[Signature]
Circuit Judge

SIGNED

[Signature] SCOTT ELLINGTON
Prosecuting Attorney of Deputy

FILED FOR RECORD
2011 AUG 22 P 3 40
CLERK OF CIRCUIT COURT