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Progressive Stereotype Construction Through Opening Statement, Witness Testimony, and Closing Argument in two criminal trials: The Seven of Chicago and West Memphis Three

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Que me respetan y regañan a la vez
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Abstract

This research aims to describe the progressive narrative construction of some specific stereotypes of defendants in criminal trials. Some specific discourse strategies were identified as relevant to examine this progression regarding the prosecution's stereotyped construction of the defendants, as well as the defense's unsuccessful attempts to resist such stereotypes. These strategies are semantic prosodies, types of questions and answers, different face attacks, and —though to a lesser extent— the making of promises. The study examines the development of the adversarial phase in two different trials —The Seven of Chicago and The West Memphis Three—: the opening statements, witness testimonies, and closing arguments.

Findings largely indicate that face attacks are productive to characterize the progression of the stereotype, and that stereotype construction in the cases of both semantic prosodies and type of questions and answers is a cumulative process that climaxes in the closing argument. Findings regarding promises, however, suggest but a partial contribution to the stereotype construction, as promise-making proved to provide only hints of the stereotype that the prosecution wants to develop and the defense intends to resist, while these hints resulted in fact to be better explained under the examination of the other analytical dimensions discussed in this study. The study concludes that the narrative construction of stereotypes during the adversarial phase of the criminal trials analyzed proved to be central in the persuasive process that is a trial. It suggests that the fact that both trials were characteristic of the lack of solid evidence against the defendants resulted in a productive compensating deployment of discourse strategies that the prosecution sets off in order for the jury to perceive defendants in a certain negative way. This, in turn, is paralleled by the defense's preventive or reactive efforts to resist the prosecution's attempts, as well as by the defendant's own resisting work. This research chiefly concludes that the strategies used, especially by lawyers, undergo a constant process of adjustment resulting from the situated lawyers' assessment of what is proving to be successful to their case's narrative construction (and to their opponent's), and of what is not. The dynamic nature of trial argumentation is, therefore, at the heart of the trial strategic constructions examined in this study.

Keywords: Forensic linguistics; stereotype; stereotype progression; anti-systemic; narrative construction; semantic prosody; FTAs; type of questions; types of answers; promises; opening statements; witness testimonies; closing statements.

Table of Contents

1. Introduction

1.1 *Presentation of the study*

Many researchers have studied different linguistic phenomena in criminal trials; however, certain parts of the trial have received more attention than others. The present study focuses on the analysis of strategies such as semantic prosody, attacks in the courtroom, types of questions with their answers and promises presented during the three adversarial stages of a trial (Heffer, 2005): opening statements, witness testimonies, and closing arguments. The study examines the way these strategies helped to build or resist certain specific stereotypes in the trials of The Seven of Chicago and The West Memphis Three, the two criminal trials analyzed. The three adversarial stages are critical for establishing and developing stereotypes that began prior to the investigation and got to be further developed during the investigation and trial.

The development of stereotypes in the trials of The Seven of Chicago and The West Memphis Three is the focus of this study. Furthermore, the emphasis is on the strategies used by prosecution lawyers to strategically establish stereotypes that aid in the narrative construction of their case, as well as the defense's ultimately unsuccessful attempts to resist said stereotypes.

During the different phases of the trial, lawyers must tell stories that fit within the legal and institutional structures and portray the narrative they want the jury to believe (Heffer, 2010). This can be achieved through the deployment of different strategies, such as metaphors, repetition of relevant words and stretches of discourse, and even rhetorical questions (Supardi, 2016). However, despite how much the trial stages have been studied, these phenomena have not been examined together, and closing arguments in general have

not received as much investigative attention as opening statements and witness testimony have. Therefore, it is important to see how these strategies (semantic prosody, types of questions and their answers, face attack in the courtroom and promises), used together, influence the progression of strategically presented stereotypes during the trial.

1.2 *Forensic Linguistics*

Forensic Linguistics is the application of linguistics to the forensic corpus, whose beginnings can be traced back to 1968 with the publishing of The Evans Statements: A Case for Forensic Linguistics, by Swedish linguist Jan Svartvik. This area of study started to gain more attention during the nineties thanks to Malcolm Coulthard's work both as a researcher and as an expert witness (Falces Sierra & Santana Lario, 2002, Coulthard & Johnson, 2010; Ramírez Salado, 2017). The general object of study of Forensic linguistics is the way in which language is intertwined with the legal processes and the law itself. Within this, three main areas of focus are distinguished: the Language and the Law, which deals directly with legal texts' language use alongside all the very many different issues that may arise in them; Linguistic evidence, where linguists analyze linguistic materials and their validity as evidence in a trial; and the Language in Legal Processes, that studies the language as an argumentative tools in the legal process and the language as potential of disadvantage for children, ethnic and dialectal minorities and second language and dialect speakers (Gibbons, 1994, as cited in Falces Sierra & Santana Lario, 2002).

1.3 *The trial*

A jury trial is a structured process in which the facts of a case are presented to a jury, who then decides whether the defendant is guilty of the charges or not. In the US system, in criminal and many civil cases, the participants are entitled to a trial by jury. Throughout the trial, the prosecution calls witnesses and presents evidence to the jury to prove that the defendant committed the crime, while the defendant, who is represented by a lawyer, tells their story relying on witnesses and evidence to counter-argue the prosecution's narrative.

Coupled with this, during the trial, the lawyer exploits all their linguistic skills to obtain admissions, substantiation, contradictions, and other evidence to prove their version of the facts (Gotti, 2012). Because of these inherent characteristics, the jury trial has been compared to drama, ritualized battle, syllogistic logic, everyday storytelling, and even literary composition (Heffer, 2005).

Extensive research has been done on the trial and its various parts, yet this has tended to focus on the opening statement, and few studies have been done on the closing argument, despite its great importance to the outcome of a trial. Likewise, no research on the strategic stage-to-stage progression of stereotypes in the narrative presented by lawyers during a trial has been published to date. For that reason, the following pages will focus on the progression of stereotypes aided by the mentioned discourse strategies—semantic prosody, type of questions and their answers, face attacks in the courtroom and promises— throughout the three parts of the trial that belong to the adversarial stage, i.e. the opening statement, witness testimony, and closing argument.

1.4 *Identity and stereotypes*

Identity and stereotype are two central concepts in this study, understood as constructions built or resisted by both the lawyers and by the witnesses (in the case of this study, witness defendants) taking the stand. While identity is considered a dynamic, constantly evolving process that has a socially constructed nature (Mullany, 2011), stereotype is a general judgment applied to individuals (Wodak & Reisigl, 2015). It is, in fact, a way of perceiving someone or something based on preconceived social or individual notions. In a trial, lawyers can create certain identities for the defendants and suppress aspects that do not help the lawyer's case (Rosulek, 2010). In this context, they can strategically establish stereotypes for the defendant, and enhance or resist them in order to construct their narrative. Having said that, even if stereotypes are understood as rather stable social judgments, the actual specific form they will adopt in the trial will depend on what is being proved useful to each lawyer’s theory of the case in the actual ongoing courtroom interaction. Therefore, in this study, stereotypes are also considered progressive constructions, ones that are shaped and tailored, through trial and error, from the opening statement, the witness testimony, and into the closing arguments, which takes place right before jury deliberation.

With these concepts now defined, the question remains, however, as to how these identities and stereotypes are actually constructed in the trial. Thereupon, this study will focus on how some specific lexical and pragmatic elements contribute to the creation or resistance of the defendants' stereotypes and identities, through both the lawyers' and the defendants' interventions in the adversarial phases of the two criminal trials examined.

1.5 *Structure of the text*

Firstly, there will be a theoretical review of the main concepts dealt with in the study. Secondly, an overview of the process and main objectives of this research. Thirdly, the analysis of both cases will be presented: first of The Seven of Chicago and, then, of the West Memphis Three, which will be presented in the same stage order that the trial follows. Fourthly, the comparison and contrast across corpora will be the final section of the analysis. Finally, the presentation of the conclusions, which includes limitations, projections, and final comments.

2. Theoretical Framework

2.1 *The trial and its parts*

As stated above, throughout history, jury trials have been compared to drama, ritualized battle, and even literary composition (Heffer, 2005). In fact, the trial could be conceptualized as the development of a narrative, in which the lawyer must construct the tale they want to tell the jury to persuade them and win their case. Lawyers will attempt this through the presentation of legal arguments, needless to say, but this presentation will also rely on the use of powerful persuasive tools, thus implementing a discourse-power cycle with their narrative (van Dijk, 2001). However, the trial itself, in court, is merely one phase in an ongoing legal story, one that comprises the whole legal process. Yet, the importance of the trial in the more general legal process is paramount, as it is at this point where the jury, as the main addressee of the discourse, will hear the parts of the story (strategically selected by

the lawyers) in a specific, interpretation-framing formal setting: the courtroom, where the lawyers act as narrators and the jury as the audience (Heffer, 2010).

Within the even broader legal process (that starts during the police investigation, and may or may not result in a trial), the judicial process begins when the defendant is charged. The jury trial is composed of different stages that add their own importance to the proceedings and the story that each lawyer wants to develop for their case (Stygall, 2012). The chronological order of a jury trial starts with the pleas and pleading, followed by the selection of the jury, or *voir dire*, and afterward the preliminary instructions from the judge to the jury. After this, the opening statement begins. Then the witness testimony starts with the submission of evidence and questioning from the defense and prosecution lawyers to the witnesses. Towards the end, the closing arguments are stated by both parties. The resolution of the trial encompasses final instructions from the judge to the jury, jury deliberation, and verdict (Heffer, 2010).

In order to delve into the parts of the jury trial that are relevant to the present research, the pertinent characteristics will be established and addressed in the following sections.

2.1.1 Description of the trial genre

A trial is a specialized genre governed by a set of discursive rules that make the language patterned and thus predictable to those who know them. In fact, the trial process and its structure are second nature to lawyers, yet it is an unfamiliar process to the average person. This is a result of the significant differences between discursive interaction in court and everyday speech, like the predetermination and explicit power asymmetry inbuilt into turn-taking, as the more dynamic and negotiable flow of a conversation in most non-institutional contexts vanishes in the ritualized rigidity of the courtroom. In contrast, in court, lawyers get to control what witnesses say and for how long they can speak, as they are allowed to interrupt them. Moreover, almost all discursive interactions in court are controlled by the lawyers, such as the selection of the topic, as well as the duration of that topic on the stand, while the witnesses cannot decide what they want to talk about, nor can they ask questions of their own

or refuse to answer those of the lawyers. Judges, on the other hand, have authority over what the lawyers can say and what the jury hears (Stygall, 2012).

The jury trial has three characteristics that have always been present in criminal trials: an adversarial contest, ritual procedures, and a way of determining guilt and punishment. Minor adjustments aside, contemporary jury trials have kept this essential structure. In fact, the contemporary jury trial comprises procedural, adversarial, and adjudicative features, which might be thought of as three views that coexist throughout the trial (Heffer, 2005).

The first phase of a trial is the procedural one. It is regarded as highly ritualistic (as usual in this context) and a brief trial phase concerned with selecting the jury and setting their task. In general, the jury is selected shortly before the start of a trial during voir dire, a stage where both the prosecutor and the defense may question prospective jurors to uncover possible bias or conflicts of interest that may be cause for exclusion. Each party has the right to ask the court to strike prospective jurors upon good reason, and different countries, states, and even courts can impose specific limits to the exclusion criteria. Once the jury has been selected, the judge must give the first instructions to the jurors.

The longest and most complex phase of the trial is the adversarial one, which is considered to be markedly strategic. It takes place between the procedural and adjudicative phases and comprises what most people conceptualize as the trial proper: the initial presentation of arguments in opening statements, the examinations and cross-examination of witnesses, and the final closing arguments. Lawyers are in charge of this stage, which involves the presentation of evidence as well as the argumentation of the case (Heffer, 2005). Also, during this phase, the initial construction of the stereotype and crime narrative takes place, as well as the attempts at the verification or neutralization of the facts, which occurs during the evidential stage. In this last phase, lawyers have control over the crime narrative through their witnesses and the questions they ask them, as well as how they guide both their questions and their witnesses in order to develop the narrative that they have been constructed since the opening statement and which will be reinforced in the closing argument (Heffer, 2010).

Then, the adjudication phase occurs at the end of the trial and is concerned with assigning the jury their decision-making task. After hearing the closing arguments from the lawyers, the judge gives their final instructions to the jurors, and they then deliberate and render a verdict (that may result in conviction and sentence, which will later be imposed by the judge). The adjudication phase is considered as the deliberative one (Heffer, 2005).

In sum, the jury trial is composed of three macro phases, procedural, adversarial, and adjudicative, all of which contribute to the construction/resistance of the defendants' stereotype and crime narrative the lawyers want to construct and tell to the benefit of their case. The adversarial stage's components, i.e., opening statement, closing argument, and witness examination will be discussed in more detail in the following sections, as this study's main focus is on the trial's strategic phase.

2.1.2 Opening Statements

As stated in the previous section, a trial consists of several phases, each of which contributes its own importance to the development and outcome of the proceedings. The initial site for the stereotypes, the focus of this study, is the opening statement, which can be considered the most important part of the trial (McElhaney, 2005; Supardi, 2016).

The opening statement is considered critical because the entire case may ultimately be won or lost based on this statement alone, as it opens the opportunity to establish credibility and get the jurors' sympathies (Leotta, 2017). The prosecution is always the first to make its opening statement, followed by the defense, and since it is one of the main opportunities for each lawyer to address the jury without interruption, they use it to create a first impression of the case that will last throughout the trial by giving the jurors a preliminary discernment of what will happen, which is accomplished by foreshadowing the upcoming information as the statement hints at information that will be strategically revealed later.

The opening statement is a potent persuasive tool for the lawyer and can even induce the jury to form a preliminary judgment since in order for the jury to understand the case, they must accept what they are told at the outset (McElhaney, 2005). This phenomenon

is called ‘primacy’, one of the two basic ways a jury can make sense of a case presented to them —the second one, ‘recency’, will be discussed further in the closing arguments section— and refers to the idea that the jury can form an opinion about the case as early in the trial as after hearing the opening statement, to then ‘hear’ and filter the evidence that supports the initial opinion they have already formed of both the case and its participants (Stygall, 2012). Primacy is not considered appropriate in legal settings, as jurors are instructed to render their verdicts based on the appraisal of evidence presented to them alone; nevertheless, lawyers do take strategic advantage of the opportunity provided by the opening statement for primacy to take place, as said statement provides the framework through which jurors will examine the subsequent presentation of evidence (Spiecker & Worthington, 2003).

In the opening statement, lawyers use discourse strategies to establish a narrative that fits the story they want to tell. Therefore, it is not infrequent for opening statements to take a narrative form, which consists of retelling what happened in such a way that the jury sees the facts and evidence as the lawyer wants them to (Powell, 2001; Leotta, 2017). The opening statement can be highly influential, as it is not only the juror’s first chance to hear the crime narrative but also the first time (and the last time until the closing speeches) that they will hear it as a piece of canonical narrative discourse (Heffer, 2005). Furthermore, the lawyers must bind the evidence into a structured narrative while outlining the evidence that each side will present (Stygall, 2012). The trial, then, is a recreation, a recounting of the events, and the lawyer is the storyteller who must delve thoroughly into the facts and circumstances that gave rise to the claim (Powell, 2001).

As with any story, the opening statement includes three logical parts: introduction, body, and conclusion (Powell, 2001; Supardi, 2016). Similar to all storytelling, the introduction serves to identify the characters, set the story's context, and inform the jury of anything they may not understand. Moreover, in this section, the lawyers set the narrative that will be used throughout the trial, which is built upon the lexical choices, dealt with under the idea of ‘semantic prosody’ in this research. Semantic prosody refers to the halo or aura of meaning that powerful words (van Dijk, 2001) leave not only in terms of that specific word, but also the processes related to it (Stewart, 2010), which may have started developing

even before the trial due to the multiple times the story has been told to the police and media (Cotterill, 2002). After the introduction of the opening statement follows the story or body, which recounts the events that transpired, and has a structure that usually, but not always, is chronologically presented (Powell, 2001). And finally, the conclusion of the opening statement brings together the nature of the case, the explanation of the factual issues, and the story itself. In addition, the narrative also must contain some other elements such as the theory of the case, theme, characters, and injuries (Supardi, 2016).

The narrative in the opening statement is not meant to contain any argument, yet it is strictly at the service or argumentative ends. Moreover, this statement is supposed to be informative rather than persuasive, to provide an outline of the story and the legal issues rather than argue the case (Heffer, 2005). In other words, it should not contain real arguments, yet still serves to build the argument in the long run, as this narrative is a subtle form of argument (Heffer, 2010). Coupled with this, the opening statement aims to subtly influence the jury even though it is not strictly supposed to. The latter idea is in line with stereotype construction, being the opening statement the first steppingstone to strategically develop intended stereotypes.

As previously stated, the opening statement is not intended to be persuasive, yet lawyers do use a variety of persuasive methods. For example, repetitions are an effective strategy of persuasion used by lawyers, as it helps to emphasize specific words and expressions that aid their initial and prospected narrative. Another common device is rhetorical question, which is a question with no expected answer, used by lawyers to capture their audience's attention and make them think about something: they do not expect an answer because it is regarded as obvious and it is this obviousness that gets highlighted, and both they and their audience are aware of it (Supardi, 2016).

2.1.3 Witness testimony

The witness testimony is the evidential stage of the broader adversarial phase of the trial and has its own set of legal and discourse rules, that includes who begins the questioning, who gets to rise and change topics, and how turn-taking must proceed (Stygall, 2012). Coupled with this, this phase is characterized as a contest between the two lawyers striving for victory,

one where they must act tactically, taking into account the trial's general legal constraints, as well as possible trial-specific considerations, such as evidence gaps, unreliable witnesses, and time management (Heffer, 2005) in the specific instance of the trial in progression.

During the witness testimony, lawyers must present evidence to prove their case, and in doing so, they focus on making good use of their evidence and witnesses. There are mainly two types of witnesses: on the one hand, primary witnesses —such as the defendants, who are undeniably directly involved in the case—, will typically assist in the construction of as many narrative 'facts' as possible. On the other hand, secondary witnesses provide additional support for the narrative and legal constructions through expert or corroborative evidence (Heffer, 2005). Expert witnesses are allowed to have greater leeway as they are permitted to draw conclusions to delimit their expertise on the field (Stygall, 2012).

Narrative coherence is difficult to attain in the witness testimony as each side is presenting its own story through various witnesses. Nevertheless, though the question/answer format is not considered narrative in nature, it can also be seen as precisely the feature which permits the lawyer to construct the stereotype of the defendant and the crime narrative. By assigning fixed questioner/answerer roles, the Q/A format "constructs a turn-taking organization that gives control of topical organization entirely to the questioner" (Levinson, 1992, as cited in Heffer, 2010, p. 208). This topical control means narratorial control, which helps to build the narrative the lawyer is trying to tell and thus builds the stereotype.

Nevertheless, in witness testimonies, narrative control is more likely to appear in a reduced form, consisting of just an orientation to the core narrative and the point to guide the narrative that lawyers want to convey (Harris, 2001, as cited in Stygall, 2012). Thus, this stage can be highly confusing to jurors, as they will not hear a completely coherent story, but rather a narrative that comes in bits and pieces, not presented in the naturally unmarked chronological narrative order. While it is true that lawyers will generally try (and are instructed to in law schools) to follow a chronological order when examining their witnesses, this is rarely possible in a trial, since it can be subverted by the presence of expert witnesses, which prevails over the need for chronological order, and other practical matters that hinder the presentation of witnesses following the chronological order in which the actual events unfolded (Stone, 1995, as cited in Heffer, 2010). In fact, especially when a trial involves a

large number of witnesses, the actual sequence of events can be simply ignored (Cotterill, 2003; Stygall, 1994, as cited in Heffer, 2010). In the same fashion, forms of discourse that are rather unrelated to the chronologically told, canonical narrative can contribute to the overall presentation of a story (Heffer, 2005).

In this stage, the witness is simply a source of evidence presented by the examining lawyer to support their case, which is challenged in cross-examination by the opposing lawyer (Heffer, 2005). The moving party, always the prosecutor in a criminal case, is the first to call witnesses to the stand, followed later by the defense's witnesses. Moreover, the procedure for direct and cross-examination is always the same: the 'friendly' lawyer examines first, followed by the opposing lawyer's cross-examination (Heffer, 2010).

At the start of direct examination, a witness may answer an open-ended question, allowing them to tell a brief narrative that is constrained by how the lawyer asks the question. When questioning their own witnesses, lawyers must choose between allowing them to narrate naturally, spontaneously, and conversationally to build trust, or else to guide them through their evidence by tightly framed questions, in small steps to ensure that the story that emerges is legally adequate and effective in terms of determining guilt or innocence (Stone, 1995, as cited in Heffer, 2010). Therefore, lawyers have much control over their witnesses' testimonies through questions and their phrasing. Throughout the direct examination, questions become increasingly specific, usually progressing from questions that invite short narratives to much more constrained questions (Tiersma, 1999, as cited in Stygall, 2012). The narrowing process puts the lawyer in control of the narrative, sometimes to the frustration of the witness. The direct examination must be a stage that helps to construct the story that is being told. Each witness provides a portion of the story, gradually constructing the party's case (Stygall, 2012).

Through the type of questions asked and the semantic prosody in these structures, lawyers can limit what witnesses say to elicit the desired response from them. For example, Wh-questions are open-ended queries that are frequently dominant during the direct examination as they invite a narrative from the witness, who tends to give long answers to such questions; conversely, tag questions receive considerably shorter answers, as they are structured in such a way as to elicit a simple confirmation/denial of the proposition built in

the question (Stygall, 2012). Additionally, polar questions can also be used as an invitation to recount a narrative, while also thought out as restricting. Nonetheless, it is crucial to mention that the specific context of the ongoing interaction is always the prime factor in explaining the pragmatic function of any grammatical form (Heffer, 2005).

Once the direct examination of the witness is complete, the opposing side will generally (but not always, since it is not a legal obligation as the direct examination is) cross-examine that witness (Heffer, 2010). Cross-examination is perhaps the best-known part of a trial due to its constant representation in the media, and the type of questioning most often associated with this instance is the leading question (Stygall, 2012). Leading questions[1] are the ones that suggest a particular answer or assume the existence of a fact which is in dispute (Nygh & Butt, 1997, as cited in Eades, 2002). They do not have a defined form and can appear as a negative yes/no question, a tag question, or a question with a rising tone at the end.

Leading questions are frequently difficult to answer, and the witness may be required to respond at length, which provides opportunities for the lawyer to spot inconsistencies. Witnesses may become quite cautious and begin to self-monitor their answers, hedging or otherwise equivocating, thus potentially lowering their credibility with the jury (Stygall, 2012). Lawyers can also shape interpretation through the type of question and semantic prosodies in them, which helps to build the narrative they want to tell (Heffer, 2010).

2.1.4 Closing arguments

The closing argument is the last part of the trial before the adjudication phase, and as other parts of the trial, the prosecution is the one that begins. While the crime narrative is usually introduced in the opening statement, and various forms of support for that story are provided by witnesses, by the closing arguments both sides tend to focus more on the trial story, recounting the witnesses who came to the stand, what they said, and how they and the

[1] For the purpose of this analysis, the term leading questions could be mistaken for the legal aspect of it, which is why the concept guiding questions will be used. The term leading will be used in this section of the research as it is cited from Stygall (2012).

opposing lawyer(s) behaved (Heffer, 2005). Here, the lawyer has the last chance to weave their story and persuade the jury, as the main purpose of closing is to weave disparate strands of testimony from an examination into a convincing and coherent narrative (Matoesian & Gilbert, 2017).

Although closing arguments have received little academic attention in contrast to opening statements, some research discusses their use of persuasive language, organizational strategies, the argument's effect in obtaining the desired jury verdict, and the way gesture relates to power, as will be seen below. The concept of recency, mentioned earlier in the opening statement section, contrasts with the concept of primacy explained in the opening statement section above (2.1.2). Recency refers to the phenomenon in which the jury hears all the evidence and makes tentative decisions at the end of the trial, possibly during closing arguments (Stygall, 2012). In essence, legal systems prefer recency. Jurors are instructed to hold their decision in abeyance until all of the evidence has been heard and the jury has been given final instructions, but cognitive studies show that "jurors do not make decisions in the manner intended by the courts regardless of how they are instructed" (Devine et al. 2001, as cited in Stygall, 2012, p. 374).

The closing argument, exclusively made to be listened to by the jury immediately before deliberation, becomes a crucial instance for lawyers to engage in open persuasion as it is the final instance to emphasize the perspectives under which the defendants should be seen. In addition to this, it is also the last chance for lawyers to concrete the stereotype developed during the previous parts of the trial. Hence, the closing argument is not only the final part of the trial but also the stage when lawyers must give their final statement synthesizing trial information and reminding evidence deemed essential to an advocate's case (Matlon, 1993, as cited in Spiecker & Worthington, 2003).

As commented before, the closing argument is the final instance where lawyers can crucially use persuasive strategies to convince the jury of their stance, thus some defense lawyers argue that prosecutors should not get the last word (Mitchell, 2000, as cited in Stygall, 2012), which is more related to the persuasive effect itself rather than the actual speech made. To put it differently, the defense lawyer should be able to properly counter argue the prosecution's narrative. In fact, it is in this instance that lawyers have to use all the

artillery of the narrative, and make it understandable to the jury, since more contextually informed, specifically suited, better-elaborated metaphors and other figures of speech can be used as the jury is now well aware of all the relevant facts of the case.

Closing arguments are not just about getting across the right story, but also about conveying the right impression (Heffer, 2005). To do so, lawyers can use additional linguistic strategies, such as rephrasing relevant ideas through the use of synonyms and antonyms, as well as the use of passive and active voice, all depending on the desired position of the actors in the case. Additionally, a closing argument can include references to the judge's final instructions, and each lawyer can suggest why the verdict should be in their favor (Stygall, 2012). Lawyers should develop consistent closing arguments to convince the jury, instead of telling them directly what to think about the case (McElhaney, 2005). A lawyer's job is to guide, show, and provide factfinders to help the jury think the right way, and they have various techniques for doing so, which will be addressed below.

The techniques used by the prosecution and the defense may have different approaches, and their effectiveness varies. For example, for the defense closing argument, a structure composed of a narrative opening and a legal-expository closing has been found more effective than an exclusively narrative structure. Different techniques, then, may have diverse compositions, but the ultimate goal is the same: to persuade. On the one hand, the narrative organization has been described as consisting of five main episodes: initial events, objectives, actions, consequences and accompanying states. All five episodes are present in a complete story and, crucially to any canonical narrative, are introduced in the natural temporal order in which they occurred. Simultaneously, pressures other than narrative are also at play here, as legal expository techniques involve a challenge or deconstruction of the prosecution's narrative —thus, a redefinition or reinterpretation of the prosecution's story—, and, finally, an emphasis on the prospected verdict. It is through these legal expository rather than narrative techniques that lawyers structure the information around the court's instructions and burden of proof (Spiecker & Worthington, 2003). The need to please both the jury’s narrative expectations and the judge’s legal ones contribute to making closing arguments a very special type of genre, where different discourse modes interact with a final persuasive end (Heffer, 2005).

To summarize, the closing argument is the lawyer's last chance to convince the jury of their side of the story, a story built up over the course of the trial. To achieve this, various discourse strategies are used to allow the lawyer to construct their narrative, and as it will be seen in the next sections, they also allow for the construction of an identity and stereotype for the defendant.

2.2 Identity construction in the trial

2.2.1 Narrative construction

As explained in relation to opening statements, witness testimony, and closing arguments, lawyers must tell stories in court that are designed to fit within the legal-institutional structure and, at the same time, with the crime narrative they want to get across to the jury (Heffer, 2005, 2010). Lawyers (particularly the prosecution, which brought the case to court) will attempt to portray a criminal story during the adversarial stage of the trial. In other words, the prosecution's narrative is formed by the criminal actions allegedly committed by the defendant, as crime narratives tend to be rather interpretative, whereas the defense may present an alternate story or simply reject the prosecution's (Heffer, 2005). This information tends to be presented through the puzzle metaphor (Cotterill, 2003): on the one hand, the prosecution explains that all the pieces of evidence are used to illustrate the "bigger picture", referring to how the crime was committed and who committed the crime. The evidence shows an image that can be seen even if some pieces are missing. On the other hand, the defense presents the idea that these pieces of evidence are "border pieces" of the puzzle, implying that they are from the borders of the main picture, thus the image cannot be seen as it is incomplete creating a misleading picture.

While the opening statement is the part of the trial that involves the most narrative construction, witness testimony is also highly important to this narrative end. A witness is called in the pursuit of constructing a story, as are the questions that are asked of them. The type of facts that the prosecutor will try to piece together from witness testimony and that the defense will try to deconstruct during cross-examination, and vice versa, is influenced by narrative construction's needs and pressures. When it is the defense's turn to speak, they will

try to piece together facts that will suggest either a counter-narrative or a flaw in the prosecution's narrative (Heffer, 2005).

Because there will always be gaps of some kind, no case can present an entirely coherent narrative, however, closing arguments are frequently about narrative gaps. This part of the trial provides an opportunity for a reiteration of the crime narrative that was told in the opening statements. Nonetheless, the narrative now is seen through the evidence of the witnesses who testified during the trial, so both sides accept that the plausibility of their stories will depend on the perceived credibility of their witnesses. For that reason, the closing argument attempts to bridge the gap between the narrative and the legal categories to which the jury will have to fit the evidence, rather than being a retelling of the whole story as seen (Heffer, 2010).

2.2.2 Semantic Prosody

The opening statement is the phase of the trial that mainly helps to develop the narrative that the lawyers wish to tell. As was stated before, it is the first chance for lawyers to address the jury without interruption, and thus they can begin to construct their desired narrative (Heffer, 2005). This narrative, as any other, is constructed with the aid of semantic prosodies, i.e., the use of contextually strategic words that acquire a specific, strategic meaning when collocated with other words, thus, creates a collective sense of them. It is paramount to highlight the importance of this collective sense, as they reveal the semantic shape of a word or a phrase and provide information on its associated connotational orientation (Cotterill, 2003).

Semantic prosody is also related to the idea of 'powerful words' that become so due to the power of the people who utter them, creating a cycle of discourse-power that makes it easier for the hearers to be manipulated by them, accepting beliefs, knowledge, and opinions solely for the reliability that powerless groups —as witnesses, defendants, and also jurors— place on powerful people —as lawyers— (van Dijk, 2001).

Also, semantic prosodies are useful for building the narrative of the crime, and specifically for constructing or resisting possible stereotypes that the prosecution and defense, respectively, intend to assign to the defendant, as the semantic network of terms can

be used, for example, to diminish the value of a witness's testimony, and thus establish a particular crime narrative (Matoesian, 2005, as cited in Stygall, 2012) fruitful to the stereotype lawyers' construction/resistance work. Therefore, semantic prosody deals with speakers' word choice, the pragmatic meaning, and the explanation of semantic associations of words that can be either positive or negative (Cheng, 2013). This is important during the opening statements as they set the groundwork for the construction of the stereotype.

In witness examination, lawyers use their questions to drive a narrative that fits their version of the crime. In questions and in their reformulation, and also in their strategic rephrasing of witnesses' answers, lawyers mention and emphasize core details for the narrative they want to build. Lawyers in the trial often repeat or reformulate a semantically accentuated element the witness has just mentioned to single it out and mark it as important for the jury, thus encouraging them to infer the point they are trying to prove. Then, lawyers manage to construct narratives also dialogically, through the examination of witnesses (Heffer, 2010). Semantic prosody, then, serves a strategic purpose in this phase of the trial, where the jury can learn, by direct observation, about the identity of lawyers and witnesses, who will use certain semantically accentuated words and expressions to construct the identity that better suits their needs.

Finally, in the closing arguments, the opposing accounts of events being built over the trial by the defense and the prosecution will be presented (Heffer, 2005). This phase of the trial will help to determine how the progressive and cumulative use of semantic prosodies affects the perceptions of the jury of the defendant's identity.

2.2.3 Identity and Stereotypes

Identity and stereotype are two intertwined concepts built throughout the trial, both at the hands of the lawyers and of the defendants themselves, with some regulatory assistance by the judge —that may ultimately play a major role in facilitating/impeding that lawyers and witnesses get to actually say what they intend. In essence, identity is considered a dynamic, constantly evolving process rather than a static product, as it is always being negotiated on specific social situations. The concept of identity is thought to be socially constructed, and it can be fluid as it varies from context to context (Mullany, 2011). So identity is, in fact, "the

social positioning of the self and other", which means that the self is viewed as relational and constituted in interaction with others rather than as a stable, self-contained entity controlled by the individual (Bucholtz & Hall, 2005, as cited in Mills, 2017, p. 42). Likewise, Oktar (2001) proposes the concept of 'cognitive differentiation', that explains that the participants engaging in verbal interaction gain a positive sense of independence to define themselves apart from the rest of the participants of the interaction. Overall, through the choice of terms of reference for the defendant and the victim, lawyers create certain identities for them and suppress aspects that do not help their case (Rosulek, 2010).

A stereotype is a generally positive or negative judgment applied to individuals. It is a way of perceiving someone or something based on preconceived social or individual notions. This implies that fictitious or real traits, which are generally visible, are linked to social, cultural, or mental characteristics. These traits are marked, stereotypically generalized, and polarized to create homogeneous groups or communities of people (Wodak & Reisigl, 2015). Along the same line, social categorization and stereotyping rely on the Social Cognitive Accounts theory, which relates to the way in which minds process a sufficient amount of information to generate a negative image of a person or group. Differently, Social Identity Theory deals with the recognition of socialization and group experiences in the development of individual perception, identity, and action (Wodak & Reisigl, 2001).

A stereotype is a widely held opinion directed at a social group or an individual member of that group. It takes the form of an oversimplified and generalized judgment that attributes or denies specific qualities or behavioral patterns to a specific class of people which usually have a negative and emotionally biased attitude (Quasthoff, 1973 cited in Wodak & Reisigl, 2015). In court, any bias can affect the outcome of a trial, thus, lawyers can use any stereotype relevant to their case to reinforce their point of view, strengthening it through their narrative by progressively adjusting and specifying it in order to suit their (stable) legal and (dynamic) contextual needs.

In terms of narrative construction, the way events are emplotted and the emphasis given to some descriptions may contribute to the reproduction of prejudice and stereotypes (De Fina & Johnstone, 2015). In other words, through the use of semantic prosodies and

general narrative construction, it is possible to create a stereotype and thus perpetuate it, and even go so far as to treat it as a real conclusion after a sequence of data that supposedly serves as proof of the stereotype (Quasthoff, 1978). Hearers tend to acknowledge beliefs, opinions, and knowledge when coming, under their perspective, from a reliable, authoritative, powerful source (van Dijk, 2001). Thus, under this context, lawyers can construct and persuade the jury towards more or less explicit stereotypes of the defendants, a strategy generally sought by the prosecution, especially in absence of legally solid evidence to produce. On the contrary, resisting these stereotypes is the usual role of the defense, especially in absence of legally solid evidence to dispute. During the interactions of construction and resistance of the stereotype, instances of aggression occur between participants; the way this aggression is performed will be dealt with in the following section.

2.2.4 Attacks to participants' Face

Politeness is a universal principle of human interaction that can be compared to a diplomatic protocol and while it varies by group, the presence of it is global. The performative acts of politeness during the trial are typically formed over several turns or even much longer stretches of interaction between judges and lawyers (Mills, 2017). In these interactions, it can be seen that there are three sociological factors that influence the level of politeness: ranking of the imposition, power of the hearer over the speaker, and social distance (Brown & Levinson, 1987).

Face, a key concept to politeness, is defined as the public self-image that every member of society wants to claim for themselves, consisting of two related aspects: their desire to be approved of (positive face), and their desire to be unimpeded in their actions (negative face). Thus, face is something emotionally invested that may be lost, preserved, or improved, and that must be continually attended to interaction. Besides the facework devoted to attending the face of the hearer, this can also be threatened; the speaker may want to intentionally attack the positive or negative face of the hearer, or the hearer may perceive the speaker's behavior as intentionally face-attacking (Culpeper, 2005).

Throughout the trial, participants engaging in FTAs (Face Threatening Acts, which will be defined and explained further in this section) may display strategies of positive or

negative politeness to mitigate their attacks. In strategies of positive politeness, the hearer's positive face is addressed, and the potential speaker's attack is minimized by an expectation of reciprocity. Whereas, negative politeness, in turn, the negative face is redressed by self-effacement of the speaker, who centers on their wants to be unimpeded and to protect their positive face. The speaker will use impersonalization and a face-saving line of escape to feel that their attack is not coerced (Brown & Levinson, 1987).

Nonetheless, for the purpose of this research, emphasis will be placed on the tendency of the participants of the trial to display strategies associated with redressive responses, mainly related to negative politeness, such as interruptions, insinuations, sarcasm, and warnings. These strategies turn into instances of impoliteness, behaviors considered emotionally negative by at least one participant (Culpeper & Hardaker, 2017), as they can take value from another person while giving value to themselves (Leech, 2014). Since these strategies act as potential threats to the defendant's identity, lead to the strengthening or resistance of the stereotype from the prosecution or defense lawyers, respectively.

Politeness strategies, for the purposes of this research, will be connected to Brown & Levinson's (1987) FTAs, defined as acts that go against the face of one of the participants. Consequently, to understand the relationship between FTAs and stereotypes, the main focus of this research, some concepts need to first be defined.

FTAs threaten the negative or positive face of one of the participants. Attacks to the negative face are usually related to some future act performed by one participant that generates pressure on the other's liberty of action. Contrastingly, attacks to the positive face are related to a negative evaluation and carelessness towards the positive face of the other. Thus, attacks to the positive face of the hearers are indicators of the speaker not desiring the wants of the hearer. These attacks can be realized as 1) expressions of blatant no cooperation, 2) expressions of ridicule, criticism and disapproval 3) contradictions or disagreements, 4) mentioning emotional or divisive topics potential and 5) expressions of violent emotions. (Brown & Levinson, 1987).

FTAs can be performed mainly in two manners: 1) a speaker does the FTAs 'on record' when in the utterance the communicative intention is clear for all the participants

without falling into ambiguity, and 2) a speaker does the FTAs 'off record' when they do not commit themselves to one particular intent. On record strategies can be held 'without redressive action', performing the act in the most direct and clear way possible. On the other hand, a response 'with redressive action' attempts to counteract the potential damage of the FTA, taking into consideration the aspect of the hearer's face that is being threatened. If redressive action is indeed taken, strategies of positive and negative politeness can be set to work.

Given the use of formal protocols to regulate (and sometimes proactively defuse) conflict between opposing parties, the courtroom is considered a useful site for politeness research (Brown & Levinson, 1987; Archer, 2017). In fact, the courtroom is arguably one of the most significant institutional sites, which are almost inevitably associated with conflict, disagreement, and the irreconcilable goals of the primary participants (Harris, 2011).

In legal settings, the possible strategies involving face range from face enhancement or flattering to face aggravation, though it is usually the latter. As the conflict between 'opposing sides' in an adversarial legal system is systematic and legally sanctioned, the potential consequences for the main participants are graver than in many, if not most, other conflict situations. Certain powerful interactants (mostly lawyers, rarely judges, and never juries) are expected to be verbally aggressive and to aggravate the faces of defendants and witnesses to win a case (Harris, 2011).

2.2.5 Making and fulfilling promises

Notwithstanding the importance of context in the interpretation of any utterance, to determine the type of illocutionary act performed between the participants of a verbal interaction it is first necessary to identify the illocutionary force of the linguistic expressions. Austin classified utterances according to five illocutionary forces: verdictives, exercitives, commissives, behabitives, and expositives. The speech act 'promise' corresponds to the third

classification, commissives, since “they commit you to doing something” (Austin, 1962, p. 150), also including a declaration and an announcement of intentions.

For the performative utterance to be satisfied, the person uttering the promise should have the intention to keep their word. Thus, the act of promising must obey the necessary conditions mentioned by Austin: 1) There must exist an accepted conventional procedure that has a certain conventional effect, including the uttering of certain words by certain people in certain circumstances; 2) these certain people and circumstances in a given case must be appropriate for the invocation of the particular procedure; 3) the procedure must be executed by all the participants correctly, 4) completely 5) the procedure is designed for use by persons having certain thoughts or feelings, or for the inauguration of certain consequential conduct on the part of any participant. Then, participants must have those thoughts or feelings and must intend to conduct themselves; and 6) the participants must conduct themselves subsequently (sincerely) (Austin, 1962).

For the purpose of this research, the speech act of promising is a significant element to provide hints of the defendant's imposed stereotype that the prosecution lawyers want to develop during the opening statements, and of the defense’s attempts to resist it. Later, during the closing arguments of the trial, if these promises have met the necessary conditions, the prosecutor lawyer can deliberately uphold the stereotype constructed or, on the contrary, the defense lawyer can resist it. This could be done in two ways: first, by arguing that the promise made was not successfully kept, and consequently, the stereotype cannot be rightfully attributed to the defendant as it is not based on the evidence the prosecution was obliged to produce. Second, by enhancing the fact that each lawyer fulfilled their respective promises made during the opening statement.

3. Methodology

This section will describe the processes by which the object of study was collected and give essential information regarding the corpora of the two criminal cases analyzed. Also, the following subsections will introduce research questions, as well as general and specific objectives.

3.1 Corpora description

3.1.1 The Seven of Chicago

The case of the Seven of Chicago refers to the trial of eight activists arrested during the Democratic National Convention in Chicago, Illinois held in August, 1968 (Malcolm, 1973). In the context of the last years of the Vietnam War, numerous anti-war and anti-establishment protestors gathered in Chicago from different states to principally express their disagreement with the active participation of the United States in the Vietnam War (Linder, n.d.). The protests lasted three days and were extremely violent, resulting in the arrest of hundreds of people, including "the eight" (then seven) soon-to-be suspects, who were prosecuted for "conspiracy against the state and for committing the federal crime of crossing state lines with the intent to incite a riot" (Linder, n.d.). This law was known as the "Anti-Riot Act" which was passed by Congress recently in April of 1968, and was purposely used to prosecute the leaders of this demonstration (Walker, n.d).

The trial lasted from September 24, 1969, to February 18, 1970, ending with the acquittal of conspiracy charges against the seven defendants. However, five of them were convicted to five years in prison for transgressing state borders to incite a riot and to pay a $5,000 fee (Linder, n.d). After the trial and its aftermath, the seven defendants continued with their lives and became lecturers, writers, activists, and economists, among other activities (Britannica, 2022).

The case was immersed in one of the most socially and politically turbulent years in America. In 1968, in the middle of the Vietnam War, anti-war ideologies expanded through universities and college campuses across the country demanding the end of the war through protests and confrontations with the police, among other types of manifestations. Therefore, when the Democratic Party organized a National Convention for the future presidential election, people prepared anti-war demonstrations to show their discontent about the current situation and several other social issues. Adding to this, the civil rights movement was also at its breaking point due to the recent assassination of Martin Luther King Jr, and multiple riots had taken place in Chicago after his death. In the political sphere, President Lyndon B. Johnson withdrew from the ongoing presidential campaign due to criticism of his support for the Vietnam War. After this, Republican Party candidate Richard Nixon, who also supported the war efforts, won the Presidential Election in November of 1968, putting even more

pressure on anti-war organizations and the counterculture movement that were attempting to frustrate the allegedly systematic conservative scheme of the government (Linder, n.d.).

Different ideologies unified under the anti-war demonstration, proved as each of The Seven of Chicago participated in different activist groups: Abbie Hoffman and Jerry Rubin in the Youth International Party (YIPPIES); Tom Hayden, Rennie Davis, and John Froines in the Students for a Democratic Society (SDS); David Dellinger and Lee Weiner in the National Mobilization Committee to End the War in Vietnam (MOBE); and Bobby Seale as the chairman of the Black Panther, though later he was not prosecuted in the trial (Linder, n.d.). The press contributed to making this case a mediatic one. Through press conferences, defendants Jerry Rubin and Abbie Hoffman turned into representative figures of the case. Both were already well known as the co-founders of the Youth International Party (commonly known as the Yippie party), actively participating in protests and demonstrations. In 1967, a few months before the famous October march on the Pentagon, Hoffman and Rubin held a news conference to explain their plans to *exorcize* the Pentagon, to "cast out evil spirits by the flower power contingent" (Mettler, 2017). In these events, Hoffman stood out not only as the spokesperson but also, later on, for his behavior during the trials due to, as will be mentioned later on the analysis, his constant disruptions of the order of the court; which is why his testimony was chosen as an object for our analysis.

For the specific context of the statements extracted in this case, it is relevant to mention the constitution of the courtroom. On the one hand, the prosecution table was formed by District lawyer Thomas Foran and his assistant Richard Schultz. On the other hand, the defense lawyers were William Kunstler and Leonard Weinglass. The court was led by Judge Julius Hoffman, whose sentence on this case was appealed by The Seventh Circuit Court of Appeals which "voided the incitement convictions on the basis that the judge had improperly limited the voir dire of the jurors, had expressed open bias against the defendants, and had bugged the phones of the defendants' counsel. It voided the contempt citations on the ground that they required jury trials" (Vile, 2009).

The parts of the trial that will be analyzed in this research are the transcriptions of the opening and closing arguments produced by the lawyers, as well as the testimonies of defendant Abbie Hoffman. The opening statements made by assistant district lawyer Richard

Schultz and defense lawyers William Kunstler and Leonard Weinglass were given on September 24, 1969, in Chicago. The closing arguments were given by defense lawyer William Kunstler and district lawyer Thomas Foran on February 13, 1970. The statements add up to a length of 13,719 words. The number of words corresponding to the opening statements accounted for 2,554 words, while the closing arguments contained a number of 6,814 words. Finally, the direct examination by defense lawyer Weinglass of defendant Hoffman contains 10,598 words, while the cross-examination by prosecutor lawyer Schultz contains 3,722 words, making a total of 14,320 words. The opening and closing arguments, and the witness testimony were extracted from the book with the transcripts of the trial, *The Trial of Chicago Seven*, by Mark L. Levine et al. (2020), and the *missing edited text* segments were retrieved from the 'Famous Trials' website transcriptions.

Through the transcription of the trials, it is possible to observe that the tone of the opening statement, witness testimony, and closing argument of these statements was mostly hostile from judge Julius Hoffman and the prosecutors toward the defendants (Park, 2020). It is crucial to mention that many instances of interruption occurred during opening statements and closing arguments, which is by no means frequent in jury trials. The arguments that interrupted the course of the trial during the opening statements and closing arguments were mainly produced by Judge Hoffman, while the rest are part of the defense lawyers' objections and the defendants' interventions. As it is highly unusual in the trial genre that the defendant interrupts the lawyers' monological opening statements, defendant Hoffman stands out due to his considerably inappropriate behavior in the courtroom (McElhaney, 2005), which includes sending kisses to the jury, making jokes and ironic comments, not standing up when the judge enters the courtroom, and 'several interruptions' (Levine et al., 2020).

Defendant Abbie Hoffman's comportment and socio-political background clearly fuel the prosecution's construction of the stereotype that will progressively be attributed to him during the trial, and then resisted by his defense. Background and personality traits are also factors in the selection of the testimony in the case of West Memphis Three, as will be seen below.

3.1.2 West Memphis Three

The case of the West Memphis Three involved the accusation of three teenagers for the murder of three eight-year-old boys in West Memphis allegedly as the result of a satanic ritual. The three children went missing on the 5th of May and they were found dead, emasculated, beaten, and tied the next day in a creek in Robin Hood Hills (Linder, n.d.).

The murder of these three children occurred during a full-moon night, which led the police to mistakenly believe that the crime was related to a satanic ritual. This alleged nature of the crime guided the officers to suspects Jesse Misskelley, Jason Baldwin, and Damien Echols, who were later sentenced. These three young men were between the ages of 16 and 17 and shared a taste in music and clothing often associated with satanism. They were fanatics of metal music and dressed almost all in black. To add to the former idea of satanism, Damien Echols, one of the suspects, was not only interested in Wicca and the occult, but he also identified himself as a Wiccan (Linder, n.d.).

There were two trials: the State versus Jessie Misskelley, and the State versus Damien Echols and Jason Baldwin. In the first one, the suspect was found guilty of one count of first-degree murder and two counts of second-degree murder, resulting in a sentence of forty years in prison. In the second trial, that lasted from February 19, 1994, to March 21, 1994, both suspects were charged with three counts of capital murder. Baldwin was sentenced to life imprisonment, and Echols, to death (Linder, n.d.).

Due to the brutal nature of the crime and the profoundly Christian religious culture of the state of Memphis, the common public and the families of the victim vocally demanded immediate justice, putting pressure on the police to find a suspect. Most of this pressure came from the rise of a *satanic panic* in Memphis that was well-covered by the media. This satanic panic was, in part, originated after the imprisonment of some serial murderers who were part of different cults and whose crimes were known for being very violent (Davis & Davis, 2017). Consecutively, during the early stages of the investigation and across the whole case, the significant press coverage negatively affected the investigation and later resolution of the case. At a now-famous press conference that was held less than a month after the bodies of the three children were found, and only a day after the (arguably, most evidently) false confession of one of the suspects, police officer Gary Clitchell rather cheerfully stated that on a one-to-ten scale, his confidence in the case and implicitly, about the suspects' guilt, was

eleven. This confidence, that Clitchell himself later regretted, suggests the biased and negligent essence of the investigation from its early days.

After Glitchell's statement, the media coverage was even more so in line with the rumors spread in the community. The press started to deem them even more strongly as "vicious killers" who were "pure evil", highlighting not only the fact that the three of them were fanatics of metal music but also Echols' appearance as an allegedly clear proof of their connection to satanism and the occult. In addition to this, influenced by the media comments, some churches regarded the case as 'marked by the devil' as the case file number contained 666 (93-05-0666), popularly known as the devil's number. These ideas quickly spread and became the common public ideas, pushing people to pressure authorities to finish the trials with the three convicted (Davis & Davis, 2017).

One of the main influences on public opinion was HBO's documentary *Paradise Lost: The Child Murders at Robin Hood Hills* in 1996. The documentary followed the three suspects during part of the investigation process and the trial. The documentary showed the heavily questioned police work during the investigation, which led to a change of public opinion outside Memphis regarding the three convicted teenagers. Some renowned actors and musicians created a fundraiser to help the defendants' families to pay for new legal aid searching for a new trial for the convicted, which then fueled a massive mediatic counterreaction now in favor of the so far infamous Memphis Three.

This research will examine the opening statements, witness testimony of Damien Echols given in the Baldwin and Echols trial, and closing arguments. The opening statement and closing argument that are to be analyzed involve only Damien Echols' defense and prosecution, not Baldwin's[2]. The prosecutors, in this case, were John Fogleman and Brent Davis. Scott Davidson, while Val Price was the defense lawyer for Damien Echols, and Paul Ford was Jason Baldwin's. The opening statements, witness testimony, and closing arguments took place from the 28th of February to the 18th of March of 1994 adding up to a total of 52,401 words. The number of words in the opening statements accounted for 3,191

[2] There are two defendants in the same trial with their respective lawyer, but there was a defense lawyer for Jason Baldwin who participated while cross-examining Damien Echols. This research will not deal with any type of characterization of Baldwin, and thus the mention of his lawyer is considered only incidental.

words, while the closing arguments contained 26,150 words. Additionally, Damien Echols' testimony contains 23,060 words; gathered from the website 'Famous Trials' by Professor Douglas O. Linder (n.d.).

Regardless this new mediatic support, it was only after 18 years in prison that Echols, Baldwin, and Misskelley were released in 2011. They appealed and failed several times throughout their time in prison, to finally be released under the negotiation of an Alford plea, a formal claim which denotes the acceptance of the outcome of the trial, but still claims innocence (Cornell Law School, n.d.).

3.2 Research questions

This study will answer the following questions:

1. Which are the main discourse strategic characteristics of opening statements, closing arguments, and witness testimony used by prosecution and defense lawyers to construct / resist the defendants' stereotypes in both trials analyzed?
2. How do the defendants react to the prosecution's construction of and defense's resistance to the stereotypes during witness testimony in both trials analyzed?
3. How can the progression of the strategic construction / resistance of the stereotyped identity of the defendants be characterized in both trials analyzed?

3.3 Objectives

Following these research questions, this study has set the following general and specific objectives:

3.3.1 General Objectives

1. Identify and describe the main discourse strategic characteristics of opening statements, closing arguments, and witness testimony used by prosecution and defense lawyers to construct / resist the stereotypes of the defendants.

2. Characterize the manner in which defendants discursively accept or resist the prosecution's construction of and defense's resistance to the stereotypes during witness testimony.

3. Characterize the progression of the strategic construction of / resistance to the stereotypes of the defendants.

4. Compare and contrast the work of construction of / resistance to the defendants' stereotypes across both trials analyzed.

3.3.2 Specific objectives

1. Characterize the lawyers' strategic uses of semantic prosodies, threats to the face of the participants, and the making of promises in opening statements in both trials analyzed.

2. Characterize the lawyers' strategic uses of semantic prosodies, attacks to the face of the participants, and the report of fulfillment of promises in closing arguments in both trials analyzed.

3. Characterize the lawyers' strategic uses of semantic prosodies, attacks to the face of the participants, and the type of questions asked during witness testimony in both trials analyzed.

4. Characterize the defendants' answers in terms of accepting or resisting the stereotypes constructed/resisted during witness testimony in both trials analyzed.

5. Compare and contrast the different elements that play a role in the progression of the stereotypes across both trials analyzed.

3.4 Procedures

To examine the corpus, it was first necessary to become familiar with the relevant context of both cases. In order to do that, the transcripts of the opening statements and closing arguments of both cases were read and relevant audiovisual material was watched. Afterwards, it was

decided to consider not only the opening statement and closing argument of both trials, but also the witness testimony of defendants Damien Echols and Abbie Hoffman, so as to proceed with a more complete analysis of the progression of stereotype construction/resistance in all the stages of the adversarial phase of the trail (Heffer, 2005).

The transcription of the statements and Hoffman's testimony were almost completely available in the book *The Trial of Chicago Seven*, by Mark L. Levine et al. (2020), and the missing edited fragments of the book were retrieved from the Famous Trials website (Linder, n.d.). Then, modifications were made to testimony transcriptions in order to have access to a corpus without missing edited parts. Similarly, The West Memphis Three's corpus corresponds to the transcriptions of the opening statement, the closing argument, and the witness testimony of Damien Echols. All transcriptions for The West Memphis Three were retrieved from the website 'Famous Trials' by Professor Linder (n.d.). This transcription is verbatim from the trial, which is why there are no corrections over the text and there are errors on spelling or grammar in the examples analyzed.

The research process consisted of two stages: 1) identification and familiarization of corpus and 2) identification of strategies used to develop the stereotype, with precise examples of each strategy.

Firstly, the research team separated into two groups, and each of which took responsibility for one of the two trials analyzed. Regular convergence meetings were held to analyze the corpus. The opening statements and closing arguments were analyzed to identify any recurrent discourse strategies used by lawyers during their narrative construction. After that initial identification, several discourse strategic elements were found relevant to the stereotype construction/resistance, such as semantic prosodies, promises made by lawyers, threats to others' face, questions and answers related to the stereotype, and legitimation of the lawyer's identity. Coupled with this, work documents were made with all of the instances in the corpus that were examples of the categories above mentioned. After that, there were several discussions regarding the categories found during the first step of identification. Lawyers' identity legitimation was a category ruled out of the research due to the unmanageable extension that would have been necessary to successfully link this complex concept with the construction of the stereotype, as it is not a direct relation, though it will be

mentioned briefly in some subsections later in the analysis. Later on in the process, the general concept of (im)politeness was changed to lack politeness in favor of Brown and Levinson's theory of Politeness and, more specifically, of face threats.

Secondly, as to semantic prosodies, the segments with semantically accentuated words that proved relevant in the progressive construction/resistance of the stereotypes went through a process of selection in order for them to be described, characterized, and interpreted according to their relevance in the defendants' stereotype construction/resistance set to work by the lawyers. After this, the promises made by lawyers during opening statements, and their reported successful or unsuccessful fulfillment in closing arguments, as well as the presence of Face Threatening Act in the courtroom, were also identified and characterized. Regarding promises, the category was almost eliminated, as it did not contribute to the construction of the stereotypes as much as it was expected and ended up being a partial contribution to the construction of the stereotypes. Nevertheless, it was included and was said to be a projection for further research. Questions and answers of the testimonies were examined according to their grammatical structure and general intention. This description and further characterization finished with the identification and examination of examples of the corpus that were the most marked instances for the construction of the stereotype. During this stage, it became apparent that the analysis of the witness testimony was essential in order to fully and accurately describe the progression of the stereotype, thus confirming a posteriori that the initial decision to consider this stage was, in fact, relevant to examine the full progression of the stereotype during the adversarial phase of both trials. Coupled with this, during this part of the process, comparisons and contrasts of the findings were made, which led to the section of compare and contrast (4.3) created as a result of the analysis of two different corpora.

4. Results and Discussion

Throughout the analyzed corpus, it is possible to realize that the prosecution lawyers' narrative constructs the stereotype of the defendant by the use of discourse strategies, which progressively developed throughout the trial. In this sense, these strategies helped create and expand a stereotype of the defendants Abbie Hoffman of The Seven of Chicago and Damien

Echols of the West Memphis Three as 'anti-systemic' individuals. The main stereotype at work in both trials, then, is that of 'anti-systemic' as will be shown throughout this discussion.

In both corpora, the prosecution's anti-systemic stereotype sought to portray the defendants as 'immature' (as will be supported with examples further below) and dangerous persons to society, an argumentative line based on their political and religious beliefs, and which will be resisted by the defense. On the one hand, defendant Abbie Hoffman was presented not only as a protestor that crossed federal borders (as stated in the indictment), but stereotyped as a ringleader inciter of violence in the Chicago protests, this on the basis of using his legal political background (as a participant in anti-Vietnam War demonstrations and as co-founder of The Youth International Party) to present him to the jury as a true danger to the status quo. Even though his political involvement did not constitute any type of crime, it was strategically used by the prosecution to construct the defendant as a much more violent outsider than supported by the facts of the trial.

On the other hand, defendant Damien Echols was not only presented as a possible murderer (as stated in the indictment and, therefore, as expected from the prosecution), but was markedly stereotyped as an anti-systemic individual in as much as he was portrayed as a worshipper of the devil. Based mainly on his physical appearance and attire, general behavior, artistic interests, and on his open admission of being a Wiccan, defendant Echols was not presented as a person with the means and opportunity to commit the heinous crime he was charged with, but especially as a person with some type of sick motivation to do so. The defendant's stereotype as a religiously anti-systemic individual, then, is founded on (falsely) presenting him as a practitioner of Satanism.

4.1 Analysis and discussion of The Seven of Chicago

4.1.1 Narrative construction in the opening statements

Opening statements are the primary instance where lawyers develop the crime narrative, establishing the arguments and central themes that will be expanded and defended throughout the trial (Heffer, 2005; 2010). During this stage, the building of a cognitive filter takes place, which the lawyers will create by using diverse narrative methods to make their discourse

persuasive (Moore, 1989, as cited in Spiecker & Worthington, 2003). In this part of the trial, there are only glimpses of what will be resisted or embraced. Following this idea, different elements were identified and analyzed, focusing on the first instances of semantic prosodies, making promises, and threats to others' faces.

The discussion will be illustrated with excerpts to exemplify the narrative construction developed throughout the opening statements of the trial, which will show how the stereotyped identities around the defendants were initially constructed/resisted by prosecution and defense, respectively. This analysis will place special emphasis on the development of the stereotype of anti-systemic and violence inciter around the defendants. During this first part of the trial, the introductory arguments are presented; thus, these stereotypes, and the strategies used by the prosecution and defense to enhance or resist them, respectively, will be further developed throughout the trial, be this by strengthening or adjusting the strategies that were successful in the dynamic situation unfolding in the courtroom, or else by eliminating those that were not.

4.1.1.1 Semantic prosodies in the opening statements

The criteria used to identify semantic prosodies relates to the number of occurrences of each term identified as a powerful word (van Dijk, 2001) that, through its halo and collocational associations (Cotterill, 2003), directly serves stereotyping purposes, as this acts as an indicator of the emphasis of given words that either the prosecution or defense used to introduce their strategic perspectives on the defendants. In this way, seventeen powerful semantic prosodies were identified, including adjectives, nouns, noun phrases, verbs, and verb phrases. However, eight of them proved to be the most relevant ones to examine, in this initial phase of the trial, the construction of the stereotypes of the seven defendants, albeit particularly that of Abbie, as political anti-systemic and inciters of violence. Then, during witness testimony, the stereotype will be constructed only around defendant Abbie Hoffman, as he was the most controversial defendant in the courtroom. These eight semantic prosodies will be presented and analyzed depending on 1) the relevance of the prosody for the construction of said stereotypes, and 2) the occurrence of each word, also, it is considered

the associations in some relevant collocations within context and co-text. The semantic prosodies identified in the prosecution's opening statement will be presented first, followed by the defense's.

Firstly, the noun *plan(s)* and the verb *planned* were used six times during the prosecution's opening statements. They were selected because of the relevance they had regarding the introduction of the stereotype, where the prosecutor lawyer Schultz developed the idea that the defendants premeditated the violent events in Chicago. Thus, the latter helps to slightly create the stereotype of them as anti-systemic people.

Example 1.

- Schultz: The Government, [...] will prove in this case, [...] an overall ***plan*** of the eight defendants in this case which was to encourage numerous people to come to the city of Chicago [...]

Example 2.

- Schultz: [...] people who ***planned*** legitimate protest during the Democratic National Convention [...]

Example 3.

- Schultz: [...] The Defendants Dellinger, Davis and Hayden joined with five other defendants who are charged in this case in their venture to succeed in their ***plans*** to *create the riot*s in Chicago during the time the Democratic National Convention [...]

As can be seen in the previous excerpts, the prosecution lawyer used the noun *plan* repeatedly during his opening statements to start constructing the defendants as an organized political anti-systemic group that arranged the events at the Convention in advance. Thus, the prosecution lawyer used the noun *plan* in collocation with the verb *to create* (example 3) to emphasize that the defendants moved people to Chicago to incite the events that happened in the city. The strategic use, in example 3, of the word *planned* collocated with *riots* opens the door to indicate and reinforce the idea that the defendants implemented a premeditated scheme that pushed people to do violent actions during the protests. Furthermore, example 1 presented this perspective as the prosecutor mentioned

how *they encouraged* the protesters to do so. Hence, the defendants were introduced as inciters of violence who encouraged young people to manifest by using their political positions to rebel against the government, and, additionally, as inciters of the violent behaviors present in the Chicago protests.

In contrast, the defense only uses the noun *plan(s)* five times during the opening statements. They were used to mitigate the implied meaning to these terms given by the prosecution lawyer, arguing that the defendants made plans to manifest in Chicago, however, under a positive light, as will be presented in the following examples:

Example 4.

- Kunstler: At the same time as they were making ***plans*** to stage this demonstration and seeking *every legal means* in which to do so [...]

Example 5.

- Kunstler: [...] The seeking of permits would be significant permits in the seeking of facilities to put their ***plans*** into operation in a *meaningful and peaceful* way.

Example 6.

- Kunstler: [...] These ***plans*** were gathering in Washington and they were gathering here in this city, and *long before a single demonstrator had set foot in the city of Chicago* [...]

The defense lawyer intended, through the use of these prosodies, to portray the defendants as not anti-systemic. They are now said to have tried to follow the required legal procedures to secure the well-being of the people that were going to gather outside the Convention, as the defendants sought *every legal means* in which to do so (4), and make a manifestation that was peaceful and enjoyable (5) for everyone. Example 5 adds to the latter idea as not only did they try every legal means to manifest, but also the defense advocated for the *meaningful* and *peaceful* nature of the act. Then, to directly counteract the prosecution's perspectives, example 6 developed how the government had already *planned* to repress the protests in Chicago, even though the protesters were not even in the city yet. Thus, the defense lawyer introduced, through these prosodies and their respective contexts, a positive perception towards the defendants that contradicts the stereotypes presented by the prosecution.

In the opening statements, the noun *fight* is used one time by the prosecution during the opening statements, to introduce a conception of the defendants as violence-driven people, which will be further developed in other parts of the trial. It can be seen in the following example:

Example 7.

- Schultz: [...] so that when the police ordered the crowd out of Lincoln Park *at curfew* and when the police stopped the march, the crowd, having been incited, would ***fight*** the police and there would be a *rio*t [...]

In the previous excerpt, the prosecution lawyer referred to how the defendants were the masterminds behind the brutality in Chicago. The noun selected targeted attention toward the violence that the police had to confront, even though they were doing what the law dictated (*at curfew*). In this way, the prosecution introduced their stereotype as anti-systemic (as they went against the police and the measures taken by the state) and of violence inciters, and, consequently, they point up the government as a reliable entity.

Other recurring prosodies during the opening statements are *protest* and *to protest*, which the prosecution lawyer used four times to portray a sense of chaos and violence against the police force, the city, and, consequently, the government. He argued that the defendants were inciters who used the Vietnam War to persuade people for their political purposes. The latter can be illustrated in the following examples:

Example 8.

- Schultz: [...] They planned to bring these people into Chicago ***to protest***, legitimately ***protest***, as I said, creat[ing] a situation in this city where these people would come to Chicago, would *riot* […]

Example 9.

- Schultz: [...] The first step was *to use the unpopularity of the war in Vietnam* as a method to urge people to come to Chicago during that Convention for purposes of ***protest***.

In the previous examples, the prosecution lawyer highlighted how the defendants organized a demonstration motivated by their strong disapproval against the government's measures regarding the War of Vietnam. In example 8, the prosecution builds their acts as a violent insurrection. In this way, the lawyer progresses the recently presented stereotype of the defendants as anti-systemic people by adding a perception of the protests not as peaceful demonstrations, but as violent ones, through the proximity of *protest* with *riot*. Through this semantic prosody, the lawyer enhanced a stereotype of the defendants as individuals who used violence, and the excuse of the War of Vietnam, to make a statement against the government, illustrated in 9. Therefore, by using the mentioned prosodies, the prosecution tried to stereotype the defendants as political anti-systemic individuals who created domestic chaos under the pretext of an overseas war.

In contrast, during the defense statements, *protest* and *to protest* had nine occurrences. These prosodies were chosen because of their relevance to portray defense lawyer Kunstler's resistance to the prosecution's earlier stereotyping statements.

Example 10.

- Kunstler [...] the *real attack* was on the rights of everybody, *all of us* American citizens, *all*, ***to protest*** under the First Amendment to the Constitution[...]

Example 11.

- Kunstler: [...] ***to protest*** against a war that was brutalizing *us all*, and ***to protest*** in a *meaningful fashion* [...]

Example 12.

- Kunstler: [..] and ***to protest*** in a meaningful fashion, and that the determination was made that that ***protest*** would be dissolved *in the blood of the protesters*[...]
-

In example 10, the defense lawyer referred to the violence deployed by public forces to repress the demonstrations in Chicago as an attack on the freedom of all Americans. The latter is seen in how the defense lawyer collocated in example 10 *real* with *attack*, and *of all of us, all* (10) and *brutalizing us all* (11), suggesting that the rights to protest of the people,

in general, had been coaxed by the political establishment. Through the repetition of *to protest*, the defendant resisted the stereotype imposed by the prosecution of *inciters* as he turned the protests into a rightful collective demonstration of discontent that was not solely motivated by the defendants, but by thousands of Americans who were against the War of Vietnam. Finally, the last example (12) mentions how there was a determination by the government to end the protests in an exceedingly violent way, exemplified by: "the protest would be dissolved *in the blood of the protesters*". Thus, it attacked, in turn, the face of the prosecution who sought to portray the government as a reliable entity that watches over their citizens.

To summarize, all of the prosodies chosen are part of a progressive semantic-lexical strategy of the lawyers, which mostly follows Stewart's (2010) idea that the terms are closely linked to the context in which the trial occurred, as these words are collocationally built (Cotterill, 2003) to have a desirable effect. Both sides used verbs and nouns collocated with other semantically accentuated words to emphasize relevant points in their arguments and, as a result, hopefully persuade the jury of a specific perception of the defendants: conspirators against the government, or citizens minimized by the establishment to exert their right to protest. It is interesting to note how the defense and prosecution used words that already have negative connotations, such as *conspiracy*, and others that are more neutral, like *plan(s)* or *planned*, and turned them into a beneficial addition to their arguments. In the case of the prosecution, these were the first attempts at constructing the defendant's stereotype.

4.1.1.2 Face threats in the courtroom in opening statements

As happens in any communicative event, the participants of the trial display strategies of positive and negative politeness. In this case, during the opening statements, several instances of negative politeness related to Face Threatening Attacks (FTAs) manifest across all the active participants of the trial: defendant Abbie Hoffmann, defense lawyer Kunstler, prosecution lawyer Schultz, and the judge. According to Brown & Levinson (1987), FTAs can fall into the categories of off-record, and on-record without a redressive or with a redressive response. Regarding the face of the participant that is being attacked, redressive

responses take the forms of positive politeness, in which the potential attack is minimized, and negative politeness, which is related to redressing the negative face of the hearer.

In this section, examples will be presented to observe the development of attacks to the face of the participants involved during the opening statements, principally focusing on defense lawyer Kunstler, whose face was attacked on several occasions reducing his possibility to deliver the defense arguments properly. Thus, it will be seen the particular attitude of the court (judge) towards the defense, which allowed the prosecution a certain position of advantage that contributed to the construction of the stereotype. In this sense, it is relevant to mention how judge Hoffman, who has the most powerful position in the trial, is the only participant with the right to intervene or interrupt at any time (Heffer, 2005). The judge used his position of power to freely and frequently interrupt the defense lawyers, showing a notorious bias as the prosecution was not interrupted throughout the trial. The latter is especially seen in the defense's opening statement, which is an instance where the lawyers have the opportunity, in theory, to address the jury uninterrupted. Thus, the judge attacked the negative face of the defense, generating an atmosphere of (im)politeness in the room which contributed, in these early stages, to the emerging prosecution's stereotype of the defendant.

Example 13.

- The Court: Is it the desire of any lawyer of a defendant to make an opening statement?

  Kunstler: It is, your Honor.

  The Court: All right. You may proceed, sir.

  Kunstler: Your Honor, it is 12:30.

  The Court: ***I know, I am watching the clock. You leave the— What does that man say— you leave the time-watching to me— on the radio or TV— leave the driving to me. Mr. Kunstler, I will watch the clock for you***

  Kunstler: Your Honor, will you permit us to complete the opening statements?

  The Court: ***I will determine the time when we recess, sir. I don't need your help on that. There are some things I might need your help on; not that.***

In the example above, defense lawyer Kunstler attacked the negative face of the court, as he reminded Judge Hoffman what time it was, thus indicating to the judge that the opening statement on behalf of the prosecution took longer than expected. In turn, the court attacked the positive face of the defense and explicitly denied the lawyer's request by establishing his superior role in the room, saying that he (the judge) would be the one to determine when their statement would start. The judge, then, did not yield to the wants of the defense lawyer and admonished him, arguing that the defense help was not needed as the court is the one that is entitled to do that task. Furthermore, in the second emphasized turn, the court attacked the negative face of the defense lawyer, and remarked that he did not need help regarding the time limits, as it is the judge's duty; thus, it neutralized the attempts of the lawyer to start his statement. The attacks of judge Hoffman on the defense lawyer's face are a glimpse of the attitude of the judge towards the defense through the trial, which gradually favored the stereotype construction of the prosecution.

This example falls under the category of an on-record intervention, as the intention of the court is unambiguous, not leaving space for interpretation of its motives and expected answers. Furthermore, it is also without redressive action because of the judge's lack of apprehension towards defense lawyer Kunstler's answer, exemplified in the following turns: "*I will determine the time when we recess, sir. I don't need your help on that", "I know, I am watching the clock. You leave the— What does that man say— you leave the time-watching to me— on the radio or TV— leave the driving to me".* These instances also portray a direct attack toward the negative face of the defense lawyer, while the judge protected his positive face in the process. With this utterance, it is possible to see the negative emotions the judge projects toward the defense, which kept developing in the rest of the trial and left the defense lawyers unable to properly delve into an argumentative line to resist the stereotype imposed on the defendants by the prosecution.

Similarly, the following example shows how the court attacks the negative face of defense lawyer Leonard Weinglass. Although the judge is allowed to make interruptions and warnings, in the Seven of Chicago case, these actions are mainly directed to the defense. In

the excerpt, an interruption of the judge during the opening statement of the defense lawyer Weinglass:

Example 14.

- Weinglass: [...] we contend even sleep in our public parks which are publicly-owned property held in trust for the public by the public officials, were reasonable demands which the city could have met if the ***persons responsible for that decision would not have been persons who were so fearful and so misunderstood the young in this country that they could not meet and talk to them in a reasonable, rational way***…

  The Court: ***I have repeatedly cautioned you***. ***I caution you again,*** Mr. Weinglass. I think you understand me. You persist in arguing and telling the jury what you propose to do in respect to objections.

  Weinglass: Yes, I thought that was the purpose of an opening statement.

  The Court: That is not the function of an opening statement. I have cautioned you time and time again. I caution you once more.

  Weinglass: I thought that was the purpose of an opening statement. Thank you, your Honor.

  The Court: Don't thank me. I didn't do it as a favor to you. ***I am cautioning you not to persist in it***...

  The Court: Mr. Weinglass, ***I have repeatedly admonished you*** not to argue to the jury**,** not to tell the jury anything other than what in your opinion the evidence will reveal. I think your persistency in disregarding the direction of the Court and the law in the face of repeated admonitions is contumacious conduct, and I so find it on the record.

As context, during the defense's opening statements, the defense lawyer directly signaled to the audience how the authorities had preconceptions that stigmatized the defendants, which did not permit a dialogue between the two parties, even though the defendants were exercising their right to protest. While developing this argument, the court interrupted the defense lawyer and threatened his positive face as the court did not cooperate with what lawyer Weinglass wanted to say. The latter is categorized as Brown and Levinson's "blatant non-cooperation" face attack, an FTA that indicates that the judge does not care for the positive face of the lawyers. Furthermore, through his answers, the judge threatened the

negative face of lawyer Weinglass by reminding him that he should not develop the argumentative line he was following.

Later, the court attacked, again the positive face of the defense lawyer as he denied his efforts, exemplified by "*don't thank me*". The latter also deals with a warning on the judge's part, specifically with the explicit use of the verb *cautioning*. Thus, the judge threatens the positive face of the defense lawyer as he expresses disapproval and reprimands (Brown & Levinson, 1987) towards the previous flattering of the lawyer. In the following response, the court addressed the role the lawyers have been allocated (Ide, 1989 as cited in Mills, 2011) as he warned the defense lawyer that his actions have a consequence; hence, he attacked the defense's negative face by using his position of power during the trial to admonish the lawyer.

To summarize, the examples shown in this section were classified as an on-record type, as the participants' intentions, in this case, the court, are explicit and unambiguous, represented in the court's biased attacks against the face of the defense lawyer. These attacks progressively affect the development of the stereotypes introduced against the defendants: anti-systemic and inciters of violence, due to the court's prevention of an appropriate narrative construction from the defense to resist these stereotypes exemplified in his several interruptions and comments against the defense lawyer.

It is worth mentioning that there were no interruptions from the judge (the court), either from the defense to the prosecution during their opening statements. Although these examples do not refer explicitly to the construction or resistance of the defendants' stereotype, they are relevant as the court's interruptions from the judge to defense lawyers presented a biased approach from the beginning of the trial, which indirectly aids the prosecution in its efforts to construct the political anti-systemic and violence inciters stereotype being imposed on the defendants.

4.1.1.3 Lawyers' promises in the opening statements

As mentioned in the theoretical framework, promises are speech acts that, as such, must meet a set of necessary conditions (Austin, 1962). Then, if one of the necessary conditions is not satisfied, such as making a promise that one does not intend to keep, the promise results in an infelicitous act, in other words, something that was not consummated. Promises are primarily formulated with the help of modal verbs; in the corpus, the majority of these verbs identified had the modal verb *will* in collocation with verbs such as *show, prove,* and *demonstrate,* used in promises and opening statements to signal commitment to a future action.

For the present research, promises were classified under two criteria: 1) type of promise and 2) grammatical elements that denote future actions. Regarding the first criterion, two types of promises were identified: *promise of evidence* and *promise of action*. On the one hand, promises of evidence target how to build the trial's narrative, and lawyers promise to present solid pieces of evidence, which the prosecution and the defense have the faculty to produce during witness testimony. On the other hand, promises of action concern certain attitudes and behaviors lawyers are committing to manifest during the trial process. In The Seven of Chicago corpus, only promises of evidence were identified, which points out the argumentative line that will eventually be followed during the trial as, during the witness testimony, evidence will be the driving force of both the prosecution's and defense's arguments. It is during the closing arguments, that promises will be recounted and lawyers can talk about the evidence they have presented throughout the trial, and also presented by their counterparts and make the jury aware of how they have fulfilled their promises.

Throughout the opening statements of the defense and prosecution, more than fifteen promises were identified and categorized under the criteria previously mentioned. Nonetheless, only the most representative promise from each side will be presented because of its explicit reference to the charges of the prosecution and defense to form their future narrative, where they threaten or flatter the face of the defendants, respectively. In this way, promises will be analyzed to understand the argumentative line the lawyers want to develop throughout the trial, which can potentially transform in a way to construct (prosecution) or resist (defense) the anti-systemic, inciters of violence stereotype imposed on the defendants. Also, the selected promises may develop into future threats to the face of the defendants that

will be materialized during the closing arguments, where the accountability of promises is expected.

Firstly, the prosecution makes a 'promise of evidence' to delimit one of the ideas they will develop throughout the trial, as they intend to construct a narrative where the defendants are seen as violent people who incited and gathered the people at Lincoln Park in Chicago. The latter is exemplified in:

Example 15.

- Schultz: So, ladies and gentlemen, of the jury, ***the Government will prove*** with regard to the permits that I have just mentioned that the defendants incited the crowd to demand sleeping in Lincoln Park and to demand that [they] march to the Amphitheatre so that when the police ordered the crowd out of Lincoln Park at curfew and when the police stopped the march, the crowd, having been incited, *would fight the police and there would be a riot.*

In the previous excerpt, prosecutor Schults threatens his positive face by committing himself to fulfill a future action throughout the trial (*the government will prove with [...]*). Through the latter, the lawyer compromised his and the government's credibility as he is expected to give evidence to the courtroom about the defendants' guilt. With the use of the powerful noun phrase *the government*, the prosecutor lawyer avoided the more precise but perceivably less powerful *prosecution* as the subject of the promise. Thus, the lawyer presents himself as a subordinate and depositary of the state administration. Also, the use of the modal verb *will + prove* suggests that the prosecution is sure of the evidence they will display, setting hints for the development of the stereotype of the defendants as politically anti-systemic, irresponsible people who incited violence against the police forces, which compromised the well-being of the people in the crowd.

Example 16.

- Kunstler: ***The defense will show*** that the real conspiracy in this case is the conspiracy to which I have alluded, *the conspiracy to curtail and prevent the demonstrations* against the war in Vietnam and related issues that these defendants and other people, thousands, who came here were determined to present to the delegates of a political party and the party in power meeting in Chicago; that the real conspiracy was against these defendants [...]
-

The previous example shows a promise of evidence made by defense lawyer Kunstler. Similarly to example 15, the defense lawyer compromises his positive face as he states that *the defense will show[...]*; so, they are expected to demonstrate the validity of this argument throughout the trial. Then, similarly to the prosodic strategy implemented in the prosecution's promise, the lawyer uses the noun phrase *The defense* —instead of the personal pronouns *I* or *we*— to impersonalize himself and give further importance to the group behind the statement. The latter is used to set a cognitive differentiation (Oktar, 2001) between the defense lawyer and the defendant against the prosecution, as it reminds the courtroom that in the trial of the Seven of Chicago, there was a confrontation of two different political ideologies: a conservative one on behalf of the Nixon government, and the Yippie's counterculture. Also, the use of the future modal verb *will + show* reinforces the certainty of the defense regarding their main argument: the conspiracy of the government against the defendants, where he identified the defendants as members of a larger group who felt dissatisfied with how the government was carrying out the Vietnam War.

In conclusion, both sides used the modal verb *will* followed by verbs like *show* and *prove* to mark the stance they are going to defend later in the trial. Additionally, the defense used the concept of *conspiracy* as one of the main topics in their promise, where the defense lawyer connected to pressing social events such as anti-war demonstrations and Yippie culture to contextualize its evidential purpose. The latter enhances the defendants' positive identity as people with an ideology focused on freedom and were not inciters of violence. Nonetheless, the prosecution adopted a more strictly legal perspective as the defendants did not have permits to execute the manifestations, so they were not allowed to be in Chicago, and, as a result, the police had to dispel them.

4.1.2 Narrative construction in witness testimony

The narrative construction of the trial, as mentioned before in the theoretical framework, works within the constraints of the very specific context that is the courtroom, where lawyers will strategically use different discoursal means to their advantage. They attempt to challenge

the defendant through questions, objections, and the emphasis of words to gradually build an impression which will influence the development of the stereotype of the defendant.

The following sections will, firstly, encompass an analysis of semantic prosodies found in the opening statements that reappeared in the direct or cross-examination; also, prosodies newly introduced during the witness testimonies will be examined. Secondly, questions asked during both examinations will be analyzed, together with the answers to said questions by the witness, to determine strategies the lawyers and the witness use to contribute or resist the stereotype (introduced during the opening statements) of the defendants being anti-systemic individuals who incite violence. Finally, FTAs strategies will be identified to portray threats directed to the face of the participants in the examination exchange.

4.1.2.1 Semantic prosodies in witness testimony

Semantic prosody, as mentioned before, deals with the "attitudinal meaning, often pragmatic, of a lexical item" (Cheng, 2013, p.1) that, through their collocation with other expressions (Cotterill, 2003), helps convey strategic meanings. This section analyzes semantic prosodies in the defense's direct examination and the prosecution's cross-examination of defendant Hoffman. Firstly, it will analyze prosodies identified in the opening statements, which have occurrences in the witness testimony. Secondly, the section will present the identification and interpretation of new prosodies found during the direct and cross-examination to determine the progression of resistance/enhancement strategies regarding the stereotypes constructed during the opening statements on behalf of the defendants.

On the one hand, in the defense's opening statements, the noun plan(s) appeared five times in lawyer Kunstler's discourse. However, during the direct examination, the defense used *plan(s)* two times, while the witness used *planning*, and *planned* two times, respectively. Similar to this first stage of the trial, in the direct examination, the mentioned terms were used to refer to plans made by the witness defendant, Abbie Hoffman, before the convention, exemplified in:

Example 17.

- Weinglass: Now in *exorcising* the Pentagon, were there any ***plans*** for the building to rise up off the ground?

  The Witness: Yes. When we were arrested they asked us what we were doing. We said it was to measure the Pentagon and *we wanted a permit to raise it 300 feet in the air,* and they said, "How about 10?" [...]

Example 18.

- Weinglass: Will you relate to the Court and jury what the conversation was?

  Hoffman: Yes. We talked about the possibility of having demonstrations at the Democratic a pre-Convention in Chicago, Illinois, that was going to be occurring that August. I am not sure that we knew at that point that it was in Chicago… Wherever it was, we were ***planning*** on going [...]

Example 19.

- Hoffman: [...] I said that we should proceed with the *festival* as ***planned***, we should try to do everything that we had come to Chicago to do*, even though the police and the city officials were standing in our way*.

Contextually, the first instance refers to how defendant Hoffman and protesters went to the Pentagon to *exorcize* the building from evil. In excerpt 17, the defense lawyer used the noun *plan* to retrieve the information if the defendant wanted to make the building levitate off the ground *(for the building to rise up off the ground)*, which, even though there are no records of the supra-segmental features of the exchange, an ironic tone, especially with the use of *exorcize* and *we wanted a permit to raise it 300 feet in the air,* is appreciated. The latter can be said to be a question that, depending on the answer, could increase the stereotype of the defendant being anti-systemic. Contrary to expected, the witness does not resist the stereotype as he answered that they sought for the building to rise. Thus, it enhances an idea of the defendant as a person who does not take public entities, or the consequences his actions might cause, seriously.

In example 18, the witness remembered a conversation with Jerry Rubin, fellow co-founder of the Yippie, about their plans to go to the Convention no matter what. Thus, *planning,* in this context, counterproductively embraces the assumptions the prosecution

lawyer referred to during his opening statements, as the defendant did not resist the stereotype of him being keen on going. The previous example also correlates with excerpt 19 as the witness embraced the fact that they *planned* to go to the Convention and protest. This particular answer reinforces the stereotype of anti-systemic and inciters of violence to some extent, as *planned* connects to: *do everything that we had come to Chicago to do*.

Lastly, in 19, the prosody enhances an anti-systemic stereotype of the witness, as he commented that they had an agenda concerning the *festival*[3], which would not change because of the presence of public forces. The word plan followed by "*do everything that we had come to Chicago to do*" and *"even though the police and the city officials were standing in our way*" reinforces the stereotype imposed on the witness of an inciter of violence as he did not fear consequences, even though it might put in danger the people who followed him.

On the other hand, the noun *plan* reappeared in the cross-examination but with only one occurrence. Thus, there is a lack of evident progression in the occurrence of the prosody as, in the opening statement, plan(s) as a noun and a verb was used a total of six times by the prosecution, where it sought to introduce the perception of the defendants being inciters of violence. Nonetheless, during the cross-examination, it enhances the stereotype by accusing the defendant/witness Hoffman of wanting to kidnap a public worker. The latter can be seen in the following example:

Example 20.

> Schultz: Isn't it a fact that you announced publicly a ***plan*** to *kidnap* the head pig--- [...]
>
> Hoffman: I do not believe that I used the reference of "pig" to any policemen in Chicago, including some of the top cheeses [...]

The prosecutor asked defendant Hoffman if he had, indeed, announced to kidnap the chief of the police, a question that undisputedly strengthens the stereotype of anti-systemic and violence inciter against him, as through the collocation of *plan* with *to kidnap,* the prosecution indicated the possible intellectual authorship of the defendant in this violent

[3] Reference to the *Festival of Life*: "A celebration of the counterculture and a protest against the state of the nation, supposed to counter the 1968 Democratic National Convention in Chicago." (Festivival, n.d.)

action against a head public worker. Also, the adjective *publicly* before *plan* adds a new characteristic to their previous arrangements, as it characterizes the defendant's violent intentions as an action he had openly addressed. The latter sustains the claims made by the prosecution, based on the defendant's supposed willingness to kidnap the chief of the police, that the witness presents an anti-systemic and violent behavior. Additionally, by mentioning *head pig*, the lawyer intends to raise the jury's awareness of how the defendant did not respect the establishment, as he mocked public institutions and people who worked for them. Nonetheless, contrary as expected, the witness resisted the stereotype behind the prosecution's statement, interrupting the question and correcting him, saying that he had never used the word *pig* to refer to the police, at least during the Chicago protests.

Secondly, the words *fight* and *fighting* appeared eleven times during the direct examination, with only two instances deployed by the defense lawyer Weinglass. Even though it did not appear in the defense's opening statement, it did in the prosecution's and during the cross-examination (which will be analyzed later on). Hence, it will still be counted as a previous prosody and, as a consequence, was added in this section and not in the one that concerns new prosodies found during the overall witness testimony. That being said, and based on the high number of occurrences made by the witness, fight and fighting mostly, in this context, help address notions and values essential to the beliefs of defendant Abbie Hoffman. The latter can be exemplified in the following examples:

Example 21.

- The Witness: And eighteen was left blank for anybody to fill in what they wanted. "It was for these reasons that we had come to Chicago, it was for these reasons that many of us may ***fight*** *and die here* [...]
- Weinglass: When you used the words "***fight*** and die here," in what context were you using those words?

  The Witness: It is a metaphor. That means that we felt strongly about our right to assemble [...]. It doesn't spell it out because people were capable of ***fighting*** in their own way and making their own decisions and we never would tell anyone specifically that they should ***fight***, fistfight.

Example 22.

- The Witness: [...] I said it was my feeling that Chicago was in a total state of anarchy as far as the police mentality worked. I said that we were going to have to ***fight*** *for every single thing*, we were going to have to ***fight*** for the electricity, we were going to have to ***fight*** to have the stage come in, we were going to have to ***fight*** for every rock musician to play, that the whole week was going to be like that.

-

The first exchange of the witness, exemplified in 21, refers to the reading of the Yippie manifesto by defendant Hoffman while in court; he explains that the blank space in number eighteen, the last statement in the manifesto, is free for everyone to write what they want. Thus, as people were supposed to write their thoughts, the witness wrote: *"[...] It was for these reasons that we had come to Chicago, it was for these reasons that many of us may fight and die here. We recognize this as the vision of the founders of this nation[...]"*. In the previous excerpt, the use of *fight* together with *die* implies an adverse construction of the meaning of fight, as it creates the sense that the verb equals a sacrifice.

Then, in the second turn of example 21, the defense lawyer referred to the particular use of *fight and die here* in: *When you used the words "fight and die here," in what context were you using those words?* which gives leverage to the defendant to explain his comments and ideas, so there is a first-hand interpretation of the discourses made in Chicago that have been taken out of context by the prosecution. As a response, the defendant highlights the use of *fight* as a metaphor to intensify the feeling regarding the right to *assemble,* to protest legitimately. As a consequence, with the latter in mind, the defendant resisted the stereotype of violence inciter through his response, as he pointed out that people were autonomous in deciding how they would fight and that neither he nor the rest of the defendants ever guided the crowds to a physical fight, *a fistfight*.

Finally, in excerpt 22, the witness used the verb *fight* to talk about what he considered were everyone's right to organize the festival demonstrations, as *fight* occurred in collocation with *electricity, stage,* and *musicians*. Abbie highlights, through these collocations, that they would have to protest for basic needs, that the state should have provided for the safety of the assistants. Thus, with the verb *fight,* the defendant resisted the stereotype of violence inciter, as he continuously referred to the term as a way to symbolically represent a

manifestation of the free exercise of people's rights as police removed that power from people.

During the cross-examination, the noun *fight* is used once by the prosecution lawyer, correlating with its occurrence in the opening statements made by lawyer Schultz. Similarly, in both instances, the term sought to highlight the violence-driven ideals of the defendants; however, in contrast to the opening statements, *fight,* in this section, is found inside a guiding question and targeting specifically to defendant Abbie Hoffman, as seen in:

Example 23.

- Schultz: It was your *Yippie myth*, Mr. Hoffman, was it not, that people will among other things in Chicago smoke dope and fuck and ***fight*** cops?

  The witness: Yes. I wrote that as a prediction [...]

In the previous example, the prosecutor used a guiding question, where *fight* intended to relate the *Yippie myth* (which will be analyzed later on) with practices such as consuming drugs, having sex, and brawling with police forces. In the excerpt, the verb *fight* emphasizes that a part of the *Yippie myth* was to seek confrontation with the police. Thereby, lawyer Schultz reinforced the stereotype of anti-systemic and violent inciter against the defendant, as he connected these acts to the political ideals of the Yippie party to which the witness belonged.

The following paragraphs will address new prosodies found in the witness testimony, either in direct or cross-examination, such as: myth, system, free and freedom. These terms will be analyzed with their respective co-texts and collocations if found.

The noun *myth,* in the direct examination, had only two occurrences produced by defendant Abbie Hoffman. This prosody is relevant as it introduces the notions regarding the political party he was part of, The Yippies.

Example 24.

- The Witness: [...] and we are called Hippie, and I said that was a ***myth***, that ***myths*** are created by media, by people communicating to each other [...]
-

The defendant mentioned how the party he belonged to 'the Yippies' were inaccurately portrayed as Hippies. The witness defined this statement (of them being called Hippie), as a *myth*, a creation by the press of the time. Through this statement, defendant Hoffman brought attention to the role of the press in how it created a specific image of them that can lead to misconceptions; the latter responded directly to the socio-political context of the time.

In the cross-examination, *myth* was used twelve times, five by prosecutor Schultz and seven by the witness Abbie Hoffman. It is essential to point out that, during the cross-examination, many of its instances were collocated with *Yippie*, a noun phrase mentioned by prosecutor Schultz four times. Thus, this term helps to address the preconceptions circulating the Yippie party, which was a central element in the social relevance defendant Abbie Hoffman had at the time, seen in the following examples:

Example 25.

- Schultz: It was your ***Yippie myth***, Mr. Hoffman, was it not, that people will among other things in Chicago *smoke dope* and *fuck* and *fight cop*s?

Example 26.

- Schultz: In getting people to Chicago, you created your ***Yippie myth***, isn't that right? And part of your myth was "We'll burn Chicago to the ground," isn't that right?

  The Witness: It was part of the ***myth*** that there were trainloads of dynamite headed for Chicago, it was part of the ***myth*** that they were going to form white vigilante groups and round up demonstrators. All these things were part of the ***myth***. A ***myth*** is a process of telling stories, most of which ain't true.

The prosecution explicitly works on the construction of the political anti-systemic stereotype, as the *Yippie myth*, illustrated in example 25, was associated with behaviors like drug use (*smoke dope*), promiscuity (*fuck*), and violence against the police (*fight the cops*). The noun *Yippie* with the noun *myth* is essential to the progressive construction of identity and

stereotype, considering one of the definitions of myth: “a popular belief or tradition that has grown up around something or someone” (“myth”, n.d.). Finally, in example 26, it can be seen how the prosecution established *the Yippie myth* as a violent ideology that sought destruction by adding: “*we’ll burn Chicago to the ground”*.

However, the defendant resisted the inciter of violence stereotype by addressing many of the ideas associated with them, like the trainloads with dynamite and the white vigilante[4] that were said to happen in Chicago as a *myth*. Then, the witness proceeds to identify a myth as something that is not necessarily accurate, exemplified in *“A myth is a process of telling stories, most of which ain't true”*. Thus, by labeling these conceptions in such a category, the defendant resisted the stereotype of being a violent inciter as he ironically dismissed the assumptions made by the prosecution.

In the direct examination, the noun *system* had a high occurrence with seventeen occurrences, all of them made by the witness Abbie Hoffman. Thus, the latter may help to portray Hoffman's beliefs and opinions at the time. Some of these instances are present in the following examples:

Example 27.

- The Witness: Jerry Rubin told me [...] He said that the war in Vietnam was not just an accident but a direct by-product of the kind of ***system***, a *capitalist* ***system*** in the country, and that we had to begin to put forth new kinds of values [...]

Example 28.

- The Witness: [...] I said that we were withdrawing our suit, that we had as little faith in the *judicial* ***system*** in this country as we had in the *political* ***system***.

Example 29.

- The Witness: Sixteen. A *political* ***system*** which is more streamlined and responsive to the needs of all the people regardless of age, sex, or race; perhaps a *national referendum* ***system*** conducted via television or a telephone voting ***system*** [...]

-

[4] white people, mostly white men, exacting violence on Black people. (Judge, 2022)

The noun *system* highlighted the ideological perspectives of the defendant(s) since it was a term crucial in Hoffman's lexical construction of his identity, demonstrated in its occurrence during his testimony, as it puts forward his perceptions about political affairs (seen in excerpt 28), such as the state of the country and the ideals promoted by the Yippie movement. For instance, example 27 referred to a comment by Jerry Rubin, where the term collocated with the adjective *capitalist* reflects his political beliefs regarding the motivations and causes of the Vietnam War, with which the witness somehow agreed. The latter directly affects the identity of the defendants, as it does not only target the witness alone but Jerry Rubin, the co-founder of the Yippie party as well. Then, in examples 28 and 29, defendant Abbie Hoffman commented about his political appreciation of the systems that govern the country, exemplified with: "we had as little faith in the *judicial system* in this country as we had in the *political system*" which directly correlates to the anti-systemic stereotype made by the prosecutor, as the defendant shows an adverse perspective on normative and customary organizations of power in the country. Likewise, example 29 portrays the changes and/or additions he would make to upgrade the systems existing at the time, which were written in the Yippie manifesto.

Also, the use of the noun *system* helps construct the Other as a different and distinct entity from the Yippie movement; in this way, it delimits an Us from Them type difference. The witness explicitly exhibits a sense of communal and individual identity as he puts themselves as a reference. This differentiation between Hoffman's persona along with the beliefs of his peers (Us) in contrast to the American socio-political status quo (Them)[5] is apparent in the witness's responses during the direct examination, as all the instances of the noun *system* occurred in the context of Hoffman's explanation of his movement (Yippies) manifesto. Then, the defendant's answers directly and negatively affect the stereotype constructions being assigned to him, as he does not explicitly resist what is being proposed by the prosecution; on the contrary, he strengthens the stereotype, which influences the perception of his guilt in the charges leveled against him.

[5] (Oktar, 2001)

During cross-examination, *system* is used one time by the prosecutor and one by the defendant, where the noun presumably referred to the government and the rules that governed American society:

Example 30.

- Schultz: You and Albert, Mr. Hoffman, were united in Chicago in your determination *to smash* the ***system*** by using any means at your disposal, isn't that right?

  Hoffman: Did I write that?

  Schultz: No, did you have that thought?

  Hoffman: That thought? Is a thought like a dream? If I dreamed *to smash* the ***system***, that's a thought. Yes, I had that thought.

The use by the prosecution lawyer of the noun *system* sought to enhance the stereotype around the defendant of being an anti-systemic individual who incites violence. In the previous example, *to smash* collocated with *the system* enhances the notion of the defendant as someone who wanted to destroy the political establishment of the time. The latter helps to identify a discourse by the prosecution lawyer that delineates the witness as a violent person, which is also enriched by the phrase: *"using any means at your disposal"* and the consequent tag *"isn't it?"* as it guides the witness towards a direct yes/no answer, that leaves behind any elaboration. However, the defendant answers with another question. Then, to continue the previous argumentative line of *smashing the system*, the prosecutor questioned the defendant Hoffman about whether he had had the thought of doing so. Even though the prosecutor wanted to highlight the violent ideals and behavior of the witness, the answer given by the defendant swiftly resists this stereotype as he clarified he had had that thought, but that it is something futile, similar to a dream *("That thought? Is a thought like a dream?")* and that does not necessarily lead to action.

Finally, in the witness testimony, the adjective *free and* the noun *freedom* were used fifteen times by Hoffman during direct examination to construct his own identity, hence,

resisting the political anti-systemic and inciter of violence stereotype, as seen in the examples:

Example 31.

- The Witness: [...] *We recognize* that *we are America*; *we recognize that we are* ***free*** *men*.

Example 32.

- The Witness: [...] other *city officials* about the fact that *they would not grant us a permit* and were *denying us our right to* ***freedom*** *of speech and assembly*.

Example 33.

- The Witness: "Seventeen. A program that encourages and promotes the arts. However, we feel that if the ***free*** *society* we envision were to be sought for and achieved, all of us would actualize the creativity within us [...]"

In example 31, the witness used the adjective *free* to refer to how he perceives his compatriots and fellow protesters as the *"free men"* of America, and, by collocating we are with the adjective free, defendant Abbie Hoffman delimits his identity as an individual and as part of a collectivity together with his peers (Yippies). In the same line, in example 32, the witness referred to *freedom* of speech and assembly as an essential right Americans are constitutionally entitled to enjoy but that the police did not allow them to exercise; thus, he threatens, in turn, the positive face of the police department. Lastly, in excerpt 33, the defendant mentioned *society* collocated with *free* to portray an ideal characteristic of it by the Yippie party, where creativity takes the lead. With this prosody, the defendant witness helped to construct his own identity and shared his Yippie philosophy, where recognition of the free man is essential. As a result, through these prosodies, defendant Hoffman resisted the stereotype of inciter of violence and anti-systemic as his visions of *freedom* are intrinsically related to the rights of Americans.

In conclusion, some prosodies presented a new occurrence in the direct and cross-examination of witness Abbie Hoffman, while others appeared during the opening statements but which did not appear in this part of the trial, such as *protest* and *to protest*. Also, new prosodies appeared, which helped to delimit and mold the identities the prosecutor or defense

wanted to legitimate on the defendant, in this case. Finally, the witness, Abbie Hoffman, has a relevant role during these testimonies to address his ideals and freely argue on what he thinks is critical. For instance, the defendant used the noun system seventeen times during the direct examination, which helped him elaborate on Yippie's values and his perceptions about the power system that ruled the country.

4.1.2.2 Types of questions in witness testimony

The questions formulated during witness testimony provide the jury with the information they, mostly, already know. In these dialogical phases of the trial, lawyers often repeat or reformulate a focus narrative element the witness had referred to in order to make their point clear to the jury (Heffer, 2005). Lawyers address the crime narrative by guiding the witness through direct examination and cross-examination, either to address the construction of the identity of the defendant in his responses or to neutralize this construction made by the counterpart. The control of the lawyers during the testimony allows them to progressively shape the stereotype of the defendant that better suits their case theory.

In total, during the direct and cross-examination, fifty-four questions were identified and analyzed. Then, to select the most relevant examples to present in this section, two main criteria were used: 1) grammatical elements connected to the formulation of the question and 2) lexical items that indicate the purpose of the question. The central grammatical elements identified in each question presented in this section are tag questions, wh-questions, polar questions, and modal questions to the defendant. Concerning Face Threatening acts, the questions that will be analyzed were identified as attacks on the negative face of the defendant witness (orders), since lawyers not only expected, but demanded a response to them to which they are legally entitled; thus, as any order, they were categorized as threats to the negative face of the witness. Also, it was identified that the purpose of these questions was to guide the defendant's answers, as shown in the occurrence of negative tags (like "isn't it?") that strategically sought for specific confirmations or denials.

In the cross-examination example below, the negative tag latter helped the defendant's identity construction, as he embraced his social identity as a political activist of the Yippie party.

Example 34.

- Schultz: As you watched on Thursday, *you knew you had won the battle of Chicago. You knew you had smashed the Democrats' chances and destroyed the two-party system* in this country and perhaps with it electoral politics, ***isn't that a fact****?*

  The Witness: I knew it had destroyed itself and that the whole world would see, and that was the sense of the victory.

Example 35.

- Schultz: In getting people to Chicago, *you created your Yippie myth, isn't that right?* And part of your myth was *"We'll burn Chicago to the ground," **isn't that right***?

  The Witness: It was part of the myth that there were trainloads of dynamite headed for Chicago, it was part of the myth that they were going to form white vigilante groups and round up demonstrators. All these things were part of the myth. A myth is a process of telling stories, most of which ain't true.

Prosecutor Schultz's question in example 34 is a tag question. Tag questions are rather complex statements turned into polar questions. Their purpose is to give no option and just push the defendant to determine whether he agrees or disagrees with the statement, leaving no room for any elaboration. The question is formulated with the negative tag isn't, which implies the expectation of a preferred positive answer. Then, prosecutor Schultz strategically constructed this question with a heavy inclination toward the stereotype of defendant Hoffman not as a simple protester, but as a destroyer of democracy and, thus, an anti-systemic individual. This leaves the defendant with only two choices: either to confirm the stereotype with the preferred positive answer (which in the context is clearly unlikely), or to resist said stereotype with an unpreferred negative one. Either way, the defendant runs the clear risk of losing face, so the prosecution's tag question does achieve its stereotyping purpose. Tag questions, eliciting yes/no answers as they do, functioned during the witness cross-examination as a prosecution's strategy to narrow down the complexities of the construction

of defendant Hoffman's identity to a simple question of stereotyping him as the almost mythic ringleader that incited people to go to Chicago to violently protest.

Although this subsection does not imply the analysis of answers, it is worth mentioning that in example 35, the defendant witness resisted the stereotype imposed on him by the prosecutor's question. For doing so, the defendant referred to the myths around him (and his fellows), such as the possible use of dynamite in the demonstration of Chicago, and stated that myths are not always true.

Following a similar strategic planning, the defense, attempting to mitigate Hoffman's participation in the events that happened in Chicago, appeals to the crime construction and formulates now a simple polar question for defendant Hoffman to confirm.

Example 36.

- Weinglass: ***Did you*** intend that the *people who surrounded the Pentagon should do anything of a violent nature* whatever to cause the building to rise 300 feet in the air and be exorcised of evil spirits?

  The Witness: I brought a number of noisemakers-

This defense's polar question demands a yes or no answer from the witness. The turn makes reference to a demonstration that took place on October 21st of 1967, known as the 'Exorcism of the Pentagon'[6]. It is worth noting that the defense's polar question strategically resumes the prosecution's stereotype construction of a violent demonstrator, in order to allow the witness defendant to explain his actions and, consequently, neutralize the negativity of the stereotype, which is a risk to take considering the trial context and the now already-known persona of the defendant. In terms of purpose, this specific question sought to deny the authorship of the violent acts that occurred during the manifestation of the Pentagon.

[6] See Methodology section (3.1.1)

In sum, the questions made during the cross-examination of the defendant witness were mainly tag questions whose formulations convey the ideas that contributed to the construction of the stereotype. While during the direct examination held by the defense Weinglass, predominated yes or no questions that sought the defendant's version. However, both instances were useful for the defendant to construct and embrace his social identity.

4.1.2.3 Types of answers in witness testimony

To characterize the passive or active behavior of the defendant witness when resisting or not the lawyers' construction of his identity and the development of the stereotype, the two natural distinguishing criteria were: 1) answers that resist the lawyers' stereotype, and 2) answers characterized by an absence of resistance to the lawyers' stereotype.

To categorize 'resistance' and 'absence of resistance' in the answers, the analysis considers some aspects of the social cognitive theory and the social identity theory (Wodak & Reisigl, 2015). As discussed above when briefly reviewing social cognitive accounts, the former theory is related to how a negative image of a group is created in people's minds, while the social identity approach deals with individual perception, identity, and actions that make a person feel part of a group where members share similar interests. It is possible to observe that the defendant witness constructed his identity based on the latter theory, as will be illustrated in the following answer given by the defendant to the defense during direct examination:

Example 37.

- Weinglass: What do you mean by the phrase "*cultural revolutionary*"?

  The Witness: Well, I suppose it is a person who tries to shape and participate in the values, and the mores, the customs and the style of living of new people who eventually become inhabitants of a new nation and a new society through art and poetry, theater, and music.

Weinglass: ***What have you done yourself to participate in that revolution*****?**

The Witness: Well, ***I have been a rock and roll singer. I am a reporter*** with the Liberation News Service. ***I am a poet***. ***I am a filmmaker***. I made a movie called "Yippies Tour Chicago or How I Spent My Summer Vacation." Currently, ***I am negotiating with United Artists*** and MGM to do a movie in Hollywood. I have written an extensive pamphlet on how to live free in the city of New York. I have written two books, one called Revolution for The Hell of It under the pseudonym Free, and one called, ***Woodstock Nation***.

Example 38.

- Weinglass: Now in ***exorcising the Pentagon, were there any plans*** for the building to rise up off the ground?

  The Witness: ***Yes***. When we were arrested they asked us what we were doing. We said it was to measure the Pentagon and ***we wanted a permit to raise it 300 feet in the air***, and they said, "How about 10?" So, we said "OK".

The questions formulated by defense lawyer Weinglass at the beginning of the direct examination are of the Wh-type, whose purpose was to allow the defendant to explain freely and unimpededly what he already mentioned about his occupation as a cultural revolutionary. In defendant Hoffman's explicative answers, it is possible to observe a strong notion of belonging to an ideological nation, a Woodstock nation (37), and his contribution to it. In these answers, the witness embraced the identity of an active participant in the art movements of the revolution rather than an inciter of violence. Thus, defendant Hoffman's self-image construction at the beginning of the testimony accounted for the social identity theory. The witness recognized himself as part of a community, one where he shares certain beliefs and ideological attributes with other fellow members, as shown by his admitted associations with the Liberation News Service and the United Artists. Then, he embraces the positive identity he is allowed to portray of himself through the defense's strategically open, narrative-inviting Wh-question.

Conversely, later but still during the defense's direct examination (38), the defendant seems to help to develop a cartoonish image of himself, to the detriment of the identity his lawyers want to portray to resist the prosecution's stereotype of a political anti-systemic and inciter of violence, whose construction is directly related to the lack of seriousness in his answers. As the following example shows: the defense asked a 'recall question', the purpose of which was to refer to the demonstration organized mainly by the witness and the rest of

the Yippie party members, intended to "exorcise the Pentagon". Instead of using this friendly opportunity to explain himself and his actions in a persuasive way to the jury, the witness reinforces the stereotype since it seems he was, as the prosecution has been portraying, mocking the State. Even when it is not possible to know the tone of defendant Hoffman's utterance since this research does not examine audios files, it is safe to assume that he tried to express, in an ironic way, that demonstrators attempted to show that material things like the State and the Pentagon would or should not be taken seriously. In doing so, defendant Hoffman does not follow his defense attempts at resisting the prosecution's stereotype of defendant Hoffman as an anti-systemic person who does not respect the government and acts in a perceivable immature way.

The example below is one of the few instances where the defendant's response is short and negative. The segment was extracted from the cross-examination by prosecutor Schultz.

Example 39.

- Schultz: Hoffman, ***isn't it*** a fact that one of the reasons why you came to Chicago was *simply to wreck American society*?

  The Witness: No.

The question follows the formulation of guiding questions used in the previous examples, with a polar question that aims to elicit a Yes/No answer from the witness. It directly states that he had the purpose of destroying the American social system by leading the protests in Chicago, as the previous contextual descriptions have indicated. The formulation of the question is related to the theory of Social Cognitive Accounts since the stereotype of the defendant as an anti-systemic man who wants to wreck the American society not only comes from the indictments but also from the negative image that the prosecution has of the defendant due to his political background as a member of the Yippie party. Nonetheless, the defendant does not give the positive response expected by the prosecution's question and swiftly denies the stereotype implied in the question, which resists the intentions that the

prosecution had, as "the constraints on witness narration are more strategic than regulatory and derive in part from a mismatch between the stories the witness and lawyer want and need to tell [...]" (Heffer, 2010, p. 208). Hence, this denial resists the stereotype being imposed by the prosecution and represents an exception to the type of answers given by the witness so far, as they are generally characterized as being longer, descriptive, narrative, ironic, or ambiguous.

The previous examples of question-answer interaction illustrate how defendant Hoffman generally gives indirect answers, which do not explicitly deny or accept what the lawyers try to elicit from him. During direct examination, defendant Hoffman embraces his social identity as an active participant of the Yippie party, whose philosophy relates to liberal anti-systemic ideas and is, consequently, seen as an absence of resistance to the stereotype of political anti-systemic, much as it is expected in the canonically friendly direct examination. However, and also as expected, when prosecutor Shultz seeks to establish the stereotype of an inciter of violence, defendant Hoffman denies and resists the ideas behind this stereotype of someone who encourages violent acts in demonstrations and wants to destroy American society.

4.1.2.4 Face threats in the courtroom in witness testimony

During the direct examination stage, lawyers expect a certain level of cooperation from the defendant and generally try to protect —and even flatter— his face. In contrast, during cross-examination, the witness's face is constantly attacked for the prosecution to construct its intended narrative. To this end, while the prosecutor displayed strategies that threatened the face of the defendant, the defense displayed strategies to satisfy the defendant's face (Brown & Levinson, 1987). In addition to this, there are several instances where Face Attacks are produced between lawyers.

Because of the persuasive process during the cross-examination, lawyers make constant threats to each other's and the witness's face, with the aim to construct the stereotype of the defendant. The corpus of The Seven of Chicago is a noteworthy example of different

FTAs directed to attack the negative face of the witness and the lawyers. Also, as discussed for opening statements, there are also many interruptions and interventions by the judge, which constitute a relevant characteristic of face threats in this trial as they usually result in facilitating the prosecutors' establishment of their position —which, as mentioned above, was later the basis of an appeal intended to void the defendants' convictions, arguing that "the judge had expressed open bias against the defendants" during the trial (Vile, 2009).

The FTAs displayed in the following examples of this section are all 'on record'. The following excerpts exemplify a Face Threatening Act between prosecutor lawyer Schultz, witness Hoffman and defense lawyer Kunstler during cross-examination.

Example 40.

- Schultz: At this meeting on the evening of August 7, you told Mr. Stahl that you were going to have ***nude-ins in your liberated zone***, didn't you?

  The Witness: A nude-in? I don't believe I would use that phrase, no.

  Schultz: You told him you were going to have ***public fornication***?

  The Witness: I might have told him that ten thousand people were going to walk naked on the waters of Lake Michigan, something like that.

  Schultz: No, you told him specifically, didn't you, Mr. Hoffman, that you were going to have nude-ins, didn't you?

  The Witness: No. I don't—No, I don't recall using that phrase or that I ever used it. I do now. It's—I don't think it's very poetic, frankly.

  Schultz: ***You told him, did you not***, Mr. Hoffman, that ***in your liberated zone*** you would have—

  The Witness: I'm not even sure what it is, a nude-in.

  Schultz: ***Public fornication***?

  The Witness: If it means ten thousand people, naked people, walking on Lake Michigan, yes.

In the example above, firstly, prosecutor Schultz threatens the witness' positive face with repeated guiding negative tag questions and through these formulations that constitute FTAs

without redressive action, the prosecutor introduces a taboo topic (Brown & Levinson, 1987) such as public fornication. Secondly, although defendant Hoffman embraces his identity in other answers, during this interaction he tried to defend his positive face by negating the prosecutor's implication. In addition to this, the witness's response is an explicit example of his resistance to the stereotype of an anti-systemic who bases his political ideas on an immature attitude. To defend his positive face, Hoffman interrupted prosecutor Shultz's and attacked the prosecutor's positive face.

The excerpt below corresponds to an extract also taken from the cross-examination made by the prosecution lawyer Schultz:

Example 41.

> Schultz: Did you symbolically and did you—did you ***symbolically urinate on the Pentagon***, Mr. Hoffman?
>
> The Witness: ***I symbolically urinate on the Pentagon?***
>
> Schultz: Yes.
>
> The Witness: Nearby yes, in the bushes, there, maybe 3,000 feet away from the Pentagon. I didn't Yes. I didn't get that close. Pee on the walls of the Pentagon? You are getting to be out of sight, actually. ***You think there is a law against it?***
>
> Schultz: ***Are you done, Mr. Hoffman?***
>
> The Witness: ***I am done when you are.***
>
> Schultz: Did you ever on a prior occasion state that a sense of integration possesses you and comes from pissing on the Pentagon?
>
> The Witness: I said from combining ***political attitudes with biological necessity***, there is a sense of integration, yes I think I said it that way, not the way you said it, but [...]

To contextualize, prosecutor Schultz asked the witness about his visit to the Pentagon, where he brought several protesters to Washington and then tried to break into the Pentagon building. The lawyer introduced a controversial topic that sought to attack the positive face of the witness as he tried to bring up the also taboo topic of urination, looking for answers

that would affirm the stereotype of an individual that has plain bad manners and, more importantly, utterly disrespects the government as a system. Then, the lawyer questioned the witness about whether he saw people urinate at the Pentagon, which, later on, is specifically directed toward defendant Hoffman's participation in this action. It is interesting to note how the witness does not contribute directly to resist the anti-systemic stereotype imposed on him during the cross-examination.

To continue, the defendant witness answered the question made by the prosecution lawyer, *"did you symbolically urinate on the Pentagon,* Mr. Hoffman?", but at the same time, the witness attacked the positive face of the prosecution lawyer as he made him aware through an ironic answer to the lawyer *"You think there is a law against it?",* as he implies that the prosecution lawyer is asking irrelevant questions. Then, the witness attacked the positive face of the prosecution lawyer again as he disapproved and challenged the question "*Are you done, Mr. Hoffman*?" with the answer *"I'm done when you are"*. Even though it is clear that the defendant did not contribute much to resist the anti-systemic stereotype with his answer, in the rest of the interaction he seemed to try to resist the stereotype of a man who bases his political beliefs on immature behavior, and attacks the positive face of the lawyer again "*I said from combining political attitudes with biological necessity, there is a sense of integration, yes I think I said it that way, not the way you said it, but [...]*". Thus, the defendant attacked the reliability of prosecutor Schultz by indicating that the questions formulated by the prosecutor were not correct.

The previous segments illustrated the atmosphere of (im)politeness during the witness testimony, where Face Threatening Attacks on the positive face predominated. These attacks were produced by the prosecutor Schultz against the defendant with the mention of taboo topics. However, to protect his positive face the defendant attacked the positive face of the prosecutor's lawyer in return.

4.1.3 Narrative construction in closing arguments

As noted above, the notions of primacy and recency describe the two approaches that jurors can take when listening to the trial and then deliberating. Primacy explains how, as early as the opening statements, the jury may have already decided the outcome of the trial, mainly based on their preconceptions of the crime and the defendant(s). The competing notion of recency describes how jurors may alternatively listen to all the evidence presented in the trial and, only then, make a decision, probably, during closing arguments, which is the ideal way a trial should proceed (Stygall, 2012). Closing arguments, then, are maximally relevant since they are the last opportunity for the prosecution and defense lawyers to expand the ideas previously formulated during the opening statements and the witness testimony, be this to remind the jury of the strength of their case or to point up the weaknesses of the counterpart.

The following sections discuss closing arguments' semantic prosody, the fulfillment of the promises made during the opening statements, and politeness during the last speech of the defense and prosecution lawyers. This section is then intended to identify and interpret the progression of the stereotype of anti-systemic and violent individuals over the seven defendants, particularly centered over defendant Hoffman.

4.1.3.1 Semantic prosodies in closing arguments

Closing arguments are not just about getting across the right story but also about conveying the right impression for which, during this part of the trial, among other strategies, the defense and prosecution prioritize using lexical repetition for emphatic purposes (Heffer, 2005). Thus, through specific lexical choices, which in some cases present a high level of occurrence, prosecutor Foran tries to enhance the stereotype of the defendants as anti-systemic individuals who deliberately planned the violent events that happened at the Convention in Chicago. Conversely, the defense intends, through the strategic use of these words, to resist the previously mentioned stereotypes and establish a positive perception towards the defendants' identities.

One of the strategies to observe the progression of the stereotype throughout the trial, is the analysis of semantically accentuated words, which will be done in the following

section. Firstly, prosodies already used in other sections of the trial to introduce/resist the anti-systemic and inciters of violence stereotypes will be analyzed, such as, *plan*, *fight*, and *protest*. In addition, the emergence of new prosodia that contribute to these strategies during the closing arguments will be presented.

The defense lawyer used the prosody *plan(s)* only once during the closing argument. Due to the lack of occurrence, the prosody presents a decrease as lawyer Kunstler used it five times in his opening statement. This prosody was used only twice during the direct examination by defense lawyer Weinglass which goes along with the two instances uttered by the defendant witness in the same stage. Hence, the occurrence suggests that this argumentative course was not especially useful to the defense's case throughout the trial. The defense's last usage of these prosodies is exemplified by *plan* in the following example:

Example 42.

> Kunstler: Now, I have one witness to discuss with you who is extremely important and gets us into the *alleged attack on the Grant Park underground garage*. This *is the most serious* ***plan*** that you have had. This is *more serious* than attacking the pigs, as they tried to pin onto the Yippies and the National Mobe. This is to bomb. This is frightening, this concept of bombing an underground garage, probably the most frightening concept that you can imagine. By the way, Grant Park garage is impossible to bomb with Molotov cocktails. It is pure concrete garage. You won't find a stick of wood in it, if you go there. But, put that aside for the moment. In a *mythical tale*. it doesn't matter that buildings won't burn.

In the previous example, the defense lawyer referred to a bombing incident allegedly caused by the defendants. Thus, the defense lawyer used the noun *plan* in collocation with the adjective *serious* to highlight the severity of the accusation made, which was by no means true. Kunstler argued that it was impossible to bomb that space, exemplified by the *"Grant Park garage is impossible to bomb with Molotov cocktails. It is pure concrete garage. You won't find a stick of wood in it, if you go there"*. Hence, the lawyer resisted the stereotype imposed on the defendants of inciters of violence as only in a "*mythical tale*" that place could have been bombed the way it did. The latter is relevant since most of the actions addressed to the defendants' political parties were connected to events that they did not commit or did

not happen as explained by defendant Hoffman in example 26, the defendant referred to how the media, or people in general, created stories about them which were sometimes taken as truthful exemplified in: “A myth is a process of telling stories, most of which ain't true.”

The prosody *plan(s)* and *planned* in the prosecution’s closing arguments had an occurrence of sixteen, which shows an increase in the usage of these terms as in the opening statements they were used six times, and only once during the cross-examination. During this last part of the trial, the prosecution deployed these terms to refresh and continue with the argument that the defendants premeditated the violent events in Chicago because of their anti-systemic beliefs and behavior. Exemplified in:

Example 43.

- Foran: The defendants in this case— first of all, they *kind of argued in a very strange way* that there was *no violence* ***planned*** by these defendants at the Democratic Convention. Since they have no evidence that *violence* wasn't ***planned***, the way they argue it is that they say Bock, Frapolly, and Oklepek and Pierson lied.

Example 44.

- Foran: Remember Davis back at that August 9 meeting, "We'll lure the McCarthy kids and other young people with music and sex and try to hold the park." And all of this was done the first night. The first night they carried out *that* ***plan***. But to carry out the big ***plan*** they had to generate more heat the next day [...] The *battle* ***plan*** that had been talked about by Davis on August 9, was almost ready. Young people had been moved into the park. They *fought* and resisted the police [...]
-

In example 43, *planned* is used to highlight the poor defense carried out (they *kind of argued in a very strange way)*, where lawyer Foran comments on the lack of valuable evidence in their favor; thus, the defense had to discredit the witnesses the prosecution presented, which were all undercover police officers who infiltrated with the defendants during the protests in Chicago. The prosecutor collocated *planned* with *violence* to remark that there were no reliable arguments from the defense, exemplified in “s*ince they have no evidence that violence wasn't planned* ”, but that, nonetheless, violent events had happened and that they were guilty. Consequently, the prosecution mentioned these prosodies, with a similar goal as

the one seen during the opening statements (Example 3) and cross-examination (Example 20), as they sought to strengthen his discourse and nullify, at the same time, the defense's argument that insisted that these accusations were part of a plot by the government to sentence the defendants as the inciters of the riot.

In example 44, the lawyer reinforced the stereotype of the defendants as inciters of violence who followed steps to provoke a confrontation with the police. Firstly, *plan* is collocated with the adjective *big* to denote that there were a variety of arrangements made (*big* plan vs. *that* plan) to achieve the results portrayed during the convention. The lawyer mentioned how the principal plan (illustrated by the use of *big*) required a more violence-driven environment to be achieved. Then, he collocates *plans* with *battle*[7], which can imply a confrontation between two armed forces. Thus, another layer to the 'inciters' stereotype was added, as the prosecutor refers to a comment made by Rennie Davis, one of the defendants who was the co-founder of the Students for a Democratic Society organization, where he talked about how they would lure young people to confront the police forces.

Another prosody that reappeared during this stage is the verb *fight*, even though, during the opening statements the defense did not use this word, in the direct examination, it was used nine times solely by the witness. Nonetheless, it is uttered one time during the defense's closing arguments, as seen in the following example:

Example 45.

- Kunstler: James Murray, who is a friend of the police, who thinks the police are the steadying force in Chicago. This man came to the stand, and he wanted you to rise up when you heard "Viet Cong flags," this *undeclared war* we are ***fighting*** against an *undeclared enemy*. [...] have the Viet Cong flags so infuriate you that you would feel against these demonstrators that they were less than human beings. The only problem is that he never saw any Viet-Cong flags. First of all, there were none, and I call your attention to the movies, and if you see one Viet Cong flag in those two hours of movies at Michigan and Balbo, you can call me a liar and convict my clients.
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[7] Reference to the first definition in Merriam-Webster Dictionary (n.d.)

Contextually, the previous example relates to how defense lawyer Kunstler exposed a witness who declared that, during the Chicago protests, Viet Cong flags[8] were raised, which then the defense refuted. The verb *fighting* refers to the battle that the country was dealing against the communists in Vietnam, which, because of being a hot topic, people at court might feel infuriated when hearing that these flags were in the protests, as seen in: "*have the Viet Cong flags so infuriate you that you would feel against these demonstrators that they were less than human being"*. The latter refers to how the witness intended to coax the positive identity built around the defendants throughout the trial, as this person tried to portray that communism was part of the demonstrations in Chicago. Thus, through this prosody, the defense lawyer counteracted the argument of the defendants being inciters of violence, in this case ideological, by attacking the positive face of the prosecution as the defense lawyer noted that the government wanted to blame the defendants for something that did not happen.

While the prosecution used *fight* only once during the opening statements and cross-examination, in the closing arguments, it appeared six times in total. In this sense, an increment is perceivable in the occurrence of these terms in the prosecution's discourse, as seen in the following excerpts:

Example 46.

- Foran: You can gather a whole bunch of people, most of them don't want to riot, but maybe want to protest, maybe want to get in on the act, maybe want to have some fun, maybe want to ***fight*** *policemen*.

Example 47.

- Foran: [...] Tear this City apart. Fuck up the Convention. Send them out. We'll start the revolution now. Do they want to ***fight***? The United States is an outlaw nation which had broken all the rules so peace demonstrators can break all the rules. Violate all the laws. Go to jail.

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[8] "Viet Cong (VC), in full Viet Nam Cong San, English Vietnamese Communists, the guerrilla force that, with the support of the North Vietnamese Army, fought against South Vietnam (late 1950s–1975) and the United States " (Britannica, 2020)

Through the use of the verb *fight* in example 55, prosecution Foran emphasized how the defendants are the ones who sought to confront the police forces during the demonstrations. The verb *fight* in collocation with the noun *policemen* was used to emphasize the defendants' stereotype of being inciters of violence, as they went against public forces. In example 56, prosecutor Foran used the verb *fight* to indicate that if the people want a confrontation (riots) to obtain peace, they would be breaking the rules and have to face the consequences of the law, which is prison. Through these examples, the prosecutor highlighted how subversive the defendants are, as he creates the argument where the defendants, and consequently, their followers are violent. The prosecution based the latter assertion on the assumption that people can be lured by the environment of these types of demonstrations into adopting a violent behavior generally promoted in these kinds of events.

The adjective *free* is one of the lexical items that was relevant in the responses of witness defendant Hoffman. During opening statements, as an adjective it was present six times, in contrast to the eight times used during the witness testimony. In this last stage of the trial, this semantic prosody helped the witness to describe the right to be free that Americans, and people in general, are entitled to. In the defense's closing argument, a similar progression of the perception of freedom was developed; as defense Kunstler used the term to emphasize, from a much philosophical and holistic perspective, that the freedom to exert their rights as citizens, and as humans, will disappear if the sentence is not favorable for their party, exemplified in:

Example 48.

- Kunstler: [...] The solutions are essentially made by continuing and perpetuating with every breath you have the right of men to think, the right of men to speak boldly and unafraid, the right to be masters of their souls, *the right to live* ***free*** and to *die* ***free***. The hangman's rope never solved a single problem except that of one man.

Example 49.

- Kunstler: [...] I think if this case does nothing else, perhaps it will bring into focus that again we are in that moment of history when a courtroom becomes the proving ground of whether *we do live* ***free*** and whether *we do die* ***free***. You are in that position now [...]

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The defense lawyer continues with the prosody developed by the witness during the direct and cross-examination. Nonetheless, he addressed these words directly to the jury and their role assigned to the trial's outcome and history. Also, the defense lawyer used this term in a much more dramatic way, exemplified by how he highlights that it is in the hands of the jury to determine "*when a courtroom becomes the proving ground of whether we do live free and whether we do die free.*" Thus, the jury will decide if the defendants, and Americans, can exercise their rights without restriction and candidly speak about their ideals and beliefs. It is relevant to mention how even though the use of freedom does not directly resist the stereotypes enforced on the defendants, it brings to light a closing point to the arguments matured by the defense, as the lawyer highlights the fact that people should be able to express what they think freely, without any restriction of any powerful entity —the government, in this case.

Finally, the prosodies *protest* and *to protest* were used in the opening statements nine times by the defense lawyer and reappeared during the closing arguments, where lawyer Kunstler used it only once in its noun form. This term is relevant to address since it helped to develop a historical perspective on the social movements in American history, as seen in the following instance:

Example 50.

- Kunstler: *These are rough problems, terrible problems,* and as has been said bv everybody in this country [...] But they *don't go away by destroying their critics.* T*hey don't vanish by sending men to jail* [...] To use these problems by attempting to destroy those who ***protest*** against them is probably *the most indecent thing that we can do* [...] You can assassinate John Kennedy or a Martin Luther King, but the problems remain [...]

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In the excerpt, the noun *protest* highlights how the defendants, who fought for their rights, were being curtailed by the government to divert attention from the War of Vietnam, as

explained in previous analyses of other semantic prosodies. However, in this example, the defense lawyer addresses how even though there are *rough, terrible problems* to solve, none of them will disappear by attacking the people who are aware of these problems, exemplified in: "*don't go away by destroying their critics" and* "*They don't vanish by sending men to jail"*. The latter can be extrapolated to the defendants who were fighting for something they believed had to change and tried to do it peacefully (as portrayed in example 5) and who, because of exercising their right to protest, were about to be sent to jail. Finally, the defense refers to John Kennedy and Martin Luther King, two people who went against the established social rules to make a change, to make a simile to the defendant's goals. Thus, the use of protest, with its respective co-text, resists the stereotype developed by the prosecution as they did not incite violence but exercised their right to manifest in a meaningful and non-violent way, and who were now prosecuted by the state for it, being "*the most indecent thing that we can do".*

Then, the prosecution used the verb *to protest* once in the closing arguments, reflecting a decrease from the four instances in the opening statements (this is found in the protest and to protest paragraph). However, the term is still relevant to address since the construction of the meaning of the prosody is similar during both argumentative lines. The instance deployed during the closing argument can be seen in example forty-six, where prosecutor Kunstler said: "*You can gather a whole bunch of people, most of them don't want to riot, but maybe want to protest, [...] maybe want to have some fun, maybe want to fight policemen".* The previous use of *to protest* ratified the prosecution's position of the defendants as inciters of violence who manipulated people as they channeled the curiosity of the protesters to fight against the police, against the government. Thus, it reinforced the stereotype the prosecution lawyers built around the defendant's identity as violent and anti-systemic individuals.

The following paragraphs will address new prosodies found in the closing arguments, such as: *kid(s)*, *evil*, and *sophisticated*. These terms will be analyzed with their respective co-texts and collocations if found.

The prosecution used the prosody *kid(s)* fifteen times in their closing discourse. They were mainly across two consecutive turns and strived to establish, at last, the defendants' stereotype. First, *kid(s)* was used to characterize young American protesters with

generic stereotypical traits, like naiveness and an anti-systemic worldview. This definition is crucial to the supposed manipulation these 'kids' experienced by the defendants to participate in the Chicago riots, as in:

Example 51.

- Foran: There are millions of ***kids*** who, naturally, if we could only remember how it is— you know, you *resent authority*, you are *impatient for chang*e, you want to *fix things up* [...] You feel a terrible frustration of a terribly difficult war that maybe as a young kid you are going to have to serve in. Sure, you don't like things like that. There is another thing about a ***kid***, if we all remember, that you have an attraction to *evil*. *Evil* is exciting and evil is interesting, and plenty of ***kids*** have a fascination for it. [...]

  There is another thing about a ***kid***, if we all remember, that you have an attraction to evil. [...] and plenty of ***kids*** have a fascination for it. [..] They know about ***kids***, and they know how to draw the ***kids*** together and maneuver them, and use them to accomplish their purposes. ***Kids*** in the 60s, you know, are disillusioned. [...] They feel that John Kennedy went, Bobby Kennedy went, Martin Luther King went— they were all killed— and the ***kids*** do feel that the lights have gone out in Camelot, the banners are furled, and the parade is over.

The prosecution uses the noun *kid(s)* in its singular and plural form to depict the protesters as people who systematically resent the establishment because of their age and social context. The latter is especially relevant for that generation due to all the social movements happening during the 60's. Furthermore, he also characterized kids as being easily persuaded by 'evil' which is represented by the defendants, as will be explained in the following examples. These nouns not only refer to young Americans, but also to the ease with which they can be influenced and manipulated to imply that the defendants took advantage of their age and position to congregate these kids and create disturbances. Thus, the prosecutor reinforces the stereotype of violence inciters.

A new lexical item introduced during the prosecution's closing arguments was the adjective *evil*, with an occurrence of six times. It intended to strengthen the stereotype of inciters while arguing that the defendants' actions were motivated by a malicious drive, which intended to cause chaos. In addition to this, *evil* reinforces the stereotype of inciters of violence while acquiring a negative connotation in prosecutor Foran's speech as it refers directly to the defendants:

Example 52.

- Foran: They didn't do anything but look for a confrontation with the police. What they looked for was a fight, and all that permits had to do with it was where was the fight going to be, and that's all. And they are *sophisticated* and they are smart and they are well-educated. And they are as ***evil*** as they can be [...]

-

The prosecution lawyer presented the defendants as people who sought a violent outcome in Chicago through the highly semantically accentuated adjective *evil*. Prosecution lawyer Foran attacked the positive face of the defendants as he characterized them as people who, despite their knowledge and education, wanted to cause the riots, thus it highlights the stereotype of the defendants as malicious anti-systemic individuals, which the prosecution has been building up throughout the entire trial. Evil, defined as: "morally reprehensible; sinful, wicked" ("evil", n.d.), is far more explicit than other terms used by the prosecution to portray the defendants as people who should be sentenced because of their actions.

The previous example, also associated with the adjective *sophisticated*, was used six times during the prosecutor's closing arguments. The prosecution, through the repetition of this word, wanted to consolidate the stereotype of the defendants as political and social 'master-minds' that plotted against the government, while there is also emphasis on the educational status of the defendants, as the following excerpt will illustrate:

Example 53.

- Foran: And so what they decided---and stop and think of it, remember at the beginning of this case they were calling them all by diminutive names, Rennie and Abbie and Jerry, trying to pretend they were young kids. These are *highly* ***sophisticate***d, highly educated men, every one of them. They are not kids. Davis, the youngest one, took the witness stand. He is twenty-nine. These are *highly* ***sophisticated***, educated men and they are evil men.

The prosecutor highlighted that they were grown-ups who enjoyed an academic formation. The latter was exemplified through the collocation of *highly* with *sophisticated* and *educated*,

as their intellectual authority and influence connected to their scholarly background. However, the defendants, according to prosecution lawyer Foran, were treated in an amicable and infantilized way that placed them in an immature spectrum during the trial even though they, as adults, had full awareness of their actions. The prosecution used the mentioned prosody to portray the defendants as people who abused their age difference to fool young 'naive' people to be part of their cause.

In conclusion, the prosodies displayed in this part of the trial were the most straightforward towards the construction of the stereotype which is consequent with the final instances for the lawyers to try and persuade the jury on their respectives narratives.

4.1.3.2 Face threats in the courtroom in closing arguments

Differently from the opening statements, closing arguments presented few interactions between the participants and, rather unexpectedly, fewer instances of face attacks. In this part of the trial, lawyers challenge or deconstruct the narration of the other to persuade the jury (Spiecker & Worthington, 2003), as well as they underscore their own strong points to the same end.

The interruptions made during closing arguments of the defense lawyer and the prosecution lawyer were selected to illustrate face attacks. The examples of FTAs between the lawyers during closing arguments will be presented to discuss their contribution to the stereotype progression constructed / resisted throughout the opening statements and witness testimony. As previously seen through this analysis, in the opening and closing arguments, Judge Hoffman used his position to interrupt the defense on more occasions than he did during the prosecution arguments. Thus, in this final critical phase of the trial, Judge Hoffman allowed (again) the prosecution unusual leeway to facilitate the strengthening of the stereotype of the defendants as inciters of violence; conversely, the judge kept showing a radically different attitude towards the defense, as he frequently interrupts them, thus hampering the defense's resistance to the stereotypes. Although objections are allowed, they rarely occur during closing arguments. During these interactions, Face threatening acts

strategies are among the participants. The following example corresponds to an objection made by prosecution lawyer Foran during the defense's closing arguments:

Example 54.

- Kunstler: Now, ***I don't think it has been any secret to you that the defendants have some questions as to whether they are receiving a fair trial.*** That has been raised many times.

  Foran: Your Honor, I object to this.

  The Court: ***I sustain the objection.***

  Kunstler: They stand here indicated under a new statute. In fact, ***the conspiracy***, which is Count I, starts the day after the president signed the law.

  Foran: Your Honor, I object to that. The law is Court to determine, not for counsel to determine.

  The Court: ***I sustain the objection.***

  Kunstler: Your Honor, ***I am going into the law. They have a right to know when it was passed.***

  The Court: ***I don't want my responsibility usurped by you.***

In the previous example, defense Kunstler refers to the allegedly unfair treatment given to the defendants throughout the trial, to which the prosecution objected, and the judge sustained the objection. The defense then continues and is interrupted again by prosecutor Foran, but this time the defense argues that he is in a position to let the jury and the defendants know about the first indictment concerning conspiracy. Judge Hoffman sees his positive face attacked by the defense lawyer, and then gives a negative evaluation of the defense's utterance before putting an end to the defense's intention to talk about the Count I *"Your Honor, I am going into the law. They have a right to know when it was passed."* Although the judge is allowed to interrupt, the frequent interruptions between lawyers and Judge Hoffman's interruptions to the defense reveal a biased position in favor of the prosecutors, as could be seen in previous phases of this trial.

As with most other instances of face threat during The Seven of Chicago trial, example 63 falls under the category of an on-record FTA. Judge Hoffman made his communicative intention clear, mentioning that his position is being indirectly questioned through a Face Threatening Act without redress; the court states to the defense Kunstler: "I don't want my responsibility usurped by you." The preference of the judge is crucial to the development and strengthening of the stereotype of violent inciters of the defendants since, as can be seen in the example above, on many occasions, the judge thwarts the possibility of the defense to properly argue its case, as well as he allows the prosecution ample opportunities to deliberately construct their narrative under the light of the defendants' now rather solid stereotype.

The next corresponds to the only interruption produced during the closing arguments of the prosecution lawyer Foran:

Example 55.

- Foran: So, he reaches down-say he takes you by the arm. Then what do you do? You scream, "Let me alone! Let me alone! Police brutality!" And you start wrestling around. Then he had again only two choices. Either he had to physically subdue you right there on the spot, or he had to get help in order to carry you out.

  Kunstler: *There is no evidence of that at all*, your Honor Mr. Foran is making up a story here. I object, your Honor.

  The Court: *I overrule your objection. You may continue, sir.*

  Foran: If the police get touch and wrongfully--- and it is wrong for a policeman to say, "This man is not going to go," so he cracks him, that is wrong. He shouldn't do that. But say he does it, which they do, policemen do that, then the crowd takes that as total justification to attack the police with rocks and bottles, and to say, "We are defending ourselves."

The previous interaction is 'on-record' since the intention of the lawyers and Judge is clear, manifested without redress. With his objection, defense lawyer Kunstler attacks the prosecutor's positive face, indicating that what the prosecutor says in his arguments is false. However, Judge Hoffman overruled the objection made by the defense and allowed

prosecutor Foran to continue with his narrative. In response, the court attacked the positive face of the defense lawyer, as his arguments were not deemed worthy to be listened to.

To conclude, the latter is an example of the biased position of the Judge as he permitted the prosecutor to continue with his construction of the story. Hence, it provides the possibility to cement the construction of the defendants' stereotype as the ones who instigated the violent response of the demonstrators against the police during the protest, thus representing them not simply as protestors who crossed Federal borders, as stated in the indictment.

4.1.3.3 Fulfillment of lawyers' promises in closing arguments

As discussed, promises are speech acts that demand a speaker's future action, as when the speaker does not have the intention to keep their promise, the act is not achieved successfully and falls into the category of infelicitous acts (Austin, 1962). Accordingly, Lowe (1998) states: "a necessary precondition to making a promise is the ability of the speaker to perform the act anticipated by the promise (i.e., a future action of the speaker)". Following this idea, in this section, there will be an analysis of the fulfillment/non-fulfillment of the promises made by the defense and prosecution lawyers during the opening statements, now in the final pre-deliberation stage of the trial, where promise accountability is expected in both as a resource to highlight the fulfillment of one's initial promises and, also, to point up the counterpart's failure to do so. This information is central to the overall interpretation of the prosecution lawyers' intent to construct the violence inciters and political anti-systemic defendant's stereotype developed during the trial, as well as the defense lawyers' attempts at resisting it.

Similar to opening statements, it is essential to remind that during closing arguments the stereotype and the indictments are focused again on the seven defendants and not only on the defendant Abbie Hoffman. The following example is the response to the promise made during the opening statements by the defense lawyer Kunstler, in which he committed to showing *"that the real conspiracy was against these defendants".*

Example 56.

- Kunstler: ***I will get down to the evidence in this case. I am going to confine my remarks to showing you how the Government stoops to conquer in this case.*** The prosecution recognized early that if you were to see thirty-three police officers in uniform take the stand that you would realize how much of the case depends on law enforcement officers [...]. Even the Deputy Police Chief came without a uniform. ***Schultz said****, "Look at our witnesses. They don't argue with the judge. They are bright and alert. They sit there and they answer clearly"*.

-

The defense's response to the promise of evidence made (by himself) during the opening followed its original line and relied on the evidence, as shown in example 12. He reinforced his argument that the charges and the stereotypes of political anti-systemic and violence inciters are a *conspiracy* against the defendants and that the prosecution has all the power and resources to succeed given their institutional relation with the police officers who were part of the protest, many of them infiltrated as demonstrators.

The promise of evidence made by the defense during the opening statements was carried out successfully by the defense lawyer. Lawyer Kunstler showed the evidence to sustain his argument concerning the conspiracy against the defendants through the trial. Thus, the promise met the necessary conditions of correct and complete execution of the act (Austin, 1962), and later during the verdict, the jury acquitted all seven defendants of conspiracy charges (Schaffer, 2022). Regarding Face Threatening Acts, in the example, the defense lawyer attacked the positive face of the prosecution lawyer referring to the prosecution only by the last name and ridiculing the attitude of the prosecutor towards the prosecution witnesses: *"Schultz said, "Look at our witnesses. They don't argue with the judge. They are bright and alert. They sit there and they answer clearly."*

The defense lawyer Kunstler not only strategically decided to get down on the evidence presented by the prosecution but also chose to discredit one of the testimonies presented by the prosecution and argued that there was no physical proof of the accusation of arson made during one of the testimonies. By this, the defense lawyer denied the arson accusation that was not part of the indictments, and it was simply used to contribute to the

stereotype of the defendants as violent inciters, which is not legally necessary in the context of the original indictment of crossing federal borders to illegally protest. With this, defense lawyer Kunstler resists the stereotype of the defendants as inciters and violence inciters and emphasizes:

Example 57.

- Kunstler: [...] And I think you can judge the importance of that man's testimony on whether he never did tell the United States lawyer anything about this in September of 1968. ***I submit he didn't because it didn't happen. It never happened. This is a simple fabrication.*** The simple truth of the matter is that there never was any such plot and you can prove it to yourselves. ***Nothing was ever found, there is no visible proof of this at all. No bottles. No rags. No sand. No gasoline.*** It was supposed to be a diversionary tactic, Mr. Schultz told you in his summation. This was a diversionary tactic. Diversionary to what?"

-

The relevance of the discredit to the work done by the prosecution lawyer Shultz forms a fundamental part of the defense argument to resist the accusation and the stereotype alleged by the prosecution. In relation to Face Attacks, this direct mention, on record, is an attack on the positive face of prosecutor lawyer Schultz, since the defense criticizes, without redress, the diversionary tactic mentioned by Schultz during his summation. The following segment was extracted from prosecution lawyer Foran's closing argument:

Example 58.

- Foran: The defendants in this case- first of all, they kind of argued in a very strange way that there was no violence planned by these defendants at the Democratic Convention. ***Since they have no evidence that violence wasn't planned***, the way they argue it is that they say Bock, Frapolly, and Oklepek and Pierson lied. They state that they lied categorically. They said, "Because Bock, Frapolly, Pierson and Oklepek were undercover agents for the police or newspapers, and therefore, they cannot be honest men."

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In this example, the prosecutor referred to one of the promises made by the defense: "*The evidence will show as far as the defendants are concerned that they, like many other citizens of the United States, numbering in the many thousands, came to Chicago in the summer of 1968 to protest in the finest American tradition [...]*.", which according to the prosecutor lawyer was no successfully performed. Prosecutor Foran, again, associated the stereotype of the defendants with immaturity, pointing out the quality of the defense of the case as a work that was not done properly: "kind of argument in a very strange way." Prosecutor Foran indicates that the defendant was not able to deny the accusation. Thus, according to the prosecutor, the promise made by the defense was not fulfilled. Hence, in the following example, prosecutor Foran emphasizes the successful fulfillment of the promise made by his party, since they were able to prove the defendant's guilt, as expectedly promised in the opening statement:

Example 59.

- Foran: [...] ***They did not say it didn't happen***. They are guilty beyond any doubt at all of the ***charges contained in the indictments*** against them.

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The prosecutor highlights his promise as successfully fulfilled, and, simultaneously, discredits the promise made by the defense of proving the conspiracy of the government against the defendants and showing evidence. Foran indicated that the defendant did not argue that the charge of planning to riot did not occur. Thus, according to the prosecutor, the defense failed to present the necessary evidence to prove that the defendants did not organize the riots in Chicago. In addition to this, during his closing argument, prosecutor Foran discredited the fulfillment of the promise made by the counterpart during the opening statements by saying "*They did not say it didn't happen*."

As naturally expected, but now from the better-informed recency (Stygall, 2012) position of speaking already on the solid basis of all the evidence produced, in the example

above Foran states that the defendants have been proven to be, indeed, guilty. Through the strategy of discredit, the prosecutor points the jury to the defense's failure to meet necessary conditions, since they made the promise that "*[T]he defense will show that the real conspiracy, in this case, is the conspiracy to which I have alluded, the conspiracy to curtail and prevent the demonstrations against the war [...]*", but could not keep. Despite the prosecution's argument, the promise of evidence of the defense was, in fact, successful, as previously mentioned, since the defense proved that there was no evidence of a conspiracy against the defendants. Thus, as an expected strategy in the trial genre, the prosecution attempted to show an image of reliability in front of the jury that would help them to concrete the stereotype of the seven defendants as violent inciters because they could not prove that "*it did not happen*." Therefore, although strategies of discredit were displayed by lawyers, both parties fulfilled the promises made during the opening statements successfully.

4.1.3.4 Other relevant observations: rhetorical questions in closing arguments

It is worth mentioning the frequent use of rhetorical questions during closing arguments. Both prosecution and defense presented closing arguments as the last chance to persuade the jury and return with a verdict in their favor. Thus, lawyers may use all the resources the law allows for the jury to believe the crime narrative they have been constructing throughout the trial (Heffer, 2010), and for doing so, they highlight their strengths and the counterpart's weaknesses through rhetorical questions.

In the following example, the defense lawyer chose in his closing arguments to validate his arguments to the jury by using a historical perspective that emphasized the cultural history that participants of the trial share as Americans. The defense lawyer constructed his narrative directed to the jury, as he remarked on the importance of their role, making them aware of the values endangered if they do not vote in the defendants' favor. Thus, through the overall narrative and the formulation of rhetorical questions, the lawyer emphasizes resistance to the stereotype of anti-systemic defendants, highlighting that fighting for what is best for the community is at the very roots of American society.

Example 60.

- Kunstler: You are in that position now. *Suddenly all importance has shifted to you---shifted to you as I guess in the last analysis it should go, and it is really your responsibility*, I think, to see that men remain able to think, to speak boldly and unafraid, to be masters of their souls, and to live and die free. And perhaps if you do what is right, perhaps *Allen Ginsberg* will never have to write again as he did in "Howl," "*I saw the best minds of my generation destroyed by madness*," perhaps Judy Collins will never have to stand in any Courtroom again and say as she did, "***When will they ever learn? When will they ever learn?****"*

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As mentioned above, the excerpt uses cultural references of the time, such as the poet Allen Ginsberg, an inspiration to the counterculture revolution in North America, and the singer, musician, and activist Judy Collins, to raise awareness of their socio-political context. It tried to highlight that the situation pushed people to manifest, thus, *defending the defendant's* social role and relevance as an American patriot, trying to resist the stereotype of inciter of violence of the defendants. With this, the defense intends to patriotically positivize the negativity associated with the idea of "protester as rioter" inbuilt into the prosecution's stereotype, probably trying to appeal to all the different sensibilities in the jury —which, diverse as they may have been, undoubtedly endorsed the patriotic beliefs widely indoctrinated to all Americans. Thus, the use of rhetorical questions, in the end, helps to emphasize the power the jury has and the relevance of the trial in the history of American society, as well as to represent the defendants as patriots who think critically and look for freedom to express themselves, as America's founding fathers did once.

On the contrary, the prosecution lawyer Foran, through the use of rhetorical questions, straightforwardly accounted for the morals at play during the events at the convention and during the trial. Thus, the prosecutor's lawyer sought to reinforce the stereotype they had developed: the defendants are anti-systemic inciters who do not respect public authority and, in this specific example, morals, either.

Example 61.

- Foran: [...] And these men would have you believe that the issue in this case is whether or not they really wanted permits. Public authority is supposed to stand handcuffed and mute in the face of people like that and say, ***"We will let you police yourselves"? How would public authority feel if they let that park be full of young kids through that Convention with no policemen, with no one watching them? What about the rape and the bad trips and worse that public authority would be responsible for if it had?***

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Prosecution lawyer Foran resumed their arguments throughout the trial by returning to the defense's argument that the defendants did seek the respective permits. In this sense, the prosecutor defends public authorities, and refers to how they were supposed to look and do nothing in the face of danger for 'young kids'. As a consequence, he resists the stereotype imposed by the prosecution that it is the government that is a violent institution and, in turn, attacks the image of the defendants by stereotyping them as drug addicts, irresponsible and abusive people, exemplified in the rhetorical question: What about the rape and the bad trips and worse that public authority would be responsible for if it had? As hypothetical events that never occurred, naturally none of this was proved in the trial, but is still presented to the jury in order to strategically (and misleadingly) persuade them into believing that the defendants have simply no respect for the citizens and their basic security. Thus, the formulation of rhetorical questions during closing statements sought to reconstruct the arguments previously mentioned in the trial as the last chance to appeal to the jury.

In the following sections, the same study will be performed on the corpus for the West Memphis 3 trial, analyzing the negative stereotypes imposed on them, regarding in specific Damian Echols, and how they evolved/were resisted throughout the trial.

4.2 Analysis and discussion of West Memphis Three

4.2.1 *Narrative construction in the opening statements*

This section discusses the findings related to the construction of, and resistance to, the satanic and religious anti-systemic stereotype. The satanic stereotype refers to the defendant's personal preferences, such as black clothing, metal music, Wicca religion, and general interests, developed in the satanic panic context in West Memphis. Coupled with the satanic

stereotype, the religious anti-systemic stereotype originated from the defendant's deviation from Christianity, it is a stereotype as the prosecution does not deem the Wiccan religion as a legitimate one. These two stereotypes were placed upon the defendant not only in the trial itself, which is going to be analyzed now, but also from the press as a result of the mediatic nature of the case.

The examination of the corpus of this trial focuses on the same dimensions already discussed for the case of the Seven of Chicago above. Thereupon, the following analysis includes considerations on semantic prosodies, lawyers' promises, and face attacks between the participants of the courtroom.

The opening statement, as already established, is the first argumentative phase of the trial and shows the beginning of the stereotype-building/resisting interplay, or in other words, how the jury's initial conceptions of the defendant and the crime are initially —and, therefore, still tentatively— manipulated by the lawyers in the courtroom. In each subsection, special attention will be given to explaining both how the prosecution starts building the satanic and religious anti-systemic stereotype that support their crime narrative and general narrative, and how the defense displays their first attempts to counter argue and resist the prosecution's initial framing of the defendant and the crime he allegedly committed.

4.2.1.1 Semantic prosodies in opening statements

During opening statements, lawyers from both parties have a potentially powerful opportunity to strategically settle the ground for the future semantic environment in which the trial is going to progress (Cotterill, 2003). As mentioned earlier, the primacy principle, which operates in cases where the jury sits for the trial with already rather firm preconceptions as to the type of offense and the type of defendant, has strong relevance as it can shape the jury's opinions even before any actual evidence has been shown at trial. The law criticizes and warns against primacy by stating that these preconceptions will unduly affect the fair consideration of the facts expected from the jury and that it is only after the evidence has been produced, confronted, and defended that any juror can be in the necessarily informed position to make such a serious decision as a verdict is (Stygall, 2012).

As was mentioned during the analysis of the previous case, narratives are often presented with specific words that become powerful since they have been uttered by powerful

people (van Dijk, 2001). This creates a discourse-power circle that makes it easier for recipients to be manipulated, which happens in the courtroom since lawyers are seen as powerful people whose knowledge is respected, and thus jurors can be easily influenced.

In this part of the analysis, the focus will be on semantic prosody, i.e., the halo or aura of meaning that these powerful words leave (Stewart, 2010) and the collocations they take in the specific context (Cotterill, 2003). Examples will be presented and discussed to illustrate how some specific words are first used during the trial, both by the prosecution to construct the stereotypes that fit their crime narrative, and also by the defense, now to resist the prosecution's stereotyping strategy. The powerful words that will also be referred to as semantically accentuated words were identified according to 1) the occurrence of the word[9], and, 2) their contribution to the construction of the said stereotypes. Moreover, the analysis will also take into consideration the associations in some relevant collocations of the prosodies in the context and co-text. Consequently, the use of these semantic prosodies was certainly not randomly used, as they play a fundamental role in the planned macro-strategy at work behind the production of that specific utterance (Stewart, 2010).

Now, specific nouns and adjectives proved to be fruitful to the progressive construction/resistance of the defendant's satanic and religious anti-systemic stereotype throughout the trial. Even though most of the semantic prosodies that contributed to the construction/resistance of the defendant's satanic and religious anti-systemic stereotype were found in the witness testimony and closing arguments, the few words selected from the opening statements help to start setting and shaping the religious anti-systemic and satanic stereotypes as steppingstones.

During the opening statement[10], the words that contained semantic prosodies to rise the stereotype of a satanist and anti-systemic defendant were found to be slight hints to what was going to be developed during the entirety of the trial, as it was the case with the adjectives *weird*, *unnatural*, the noun phrase, *not the all-American boy*, the noun *ditch*, and the verb *dump*. Special emphasis must be made regarding the adjective weird as during this section it

[9]This first selection criterion is not considered in this instance of the trial, due to the importance of the few words used to describe both the crime scene and the defendant. These words will be developed further in the following stages of the trial due to the progression of these first attempts to construct the satanic stereotype.

[10]It is important to recall that in West Memphis Three, the prosecution started the opening statement followed by the defense opening statement.

will be seen the progression of the adjective as it changes to semantic prosodies with a higher negative connotation such as *satanic*, *Wiccan*, and *evil*. Examples of these words in context to illustrate their use are presented and discussed first by the prosecution followed by the defense's opening statements.

In example 62, the prosecution emphasized the specific features of the area of the crime to construct the crime narrative. The use of the semantically accentuated word that contributes to the satanic stereotype is the adjective *unnatural*, which although it was only used once in the opening statement, there is still significant to the construction of the stereotype.

Example 62.

- Fogleman: the proofs going to show had been, uh, *slicked off,* or like *scuff marks*, ***unnatural*** *marks* to the area, whereas the area right beside it had leaves on it and didn't have that appearance. There's no blood. No blood. At all.

The prosecutor used the semantic prosody *unnatural* to characterize the crime scene and to tentatively set the ground for the incremental construction of the satanic stereotype in a similar way to how weird was used to set the ground to build the satanic and religious anti-systemic stereotype (which will be seen further below in this same section). The adjective *unnatural* sets the idea that the crime scene was manipulated, it was not in its natural state in order to appear clean and to eliminate any evidence. These prosodies are clearly connected to the stereotype once all parts of the trial are analyzed together. Even though the word *unnatural* by itself seems to be unrelated to the stereotype, when it is seen in the light of the progression of the stereotype, the prosody makes much more sense in this part of the trial, as the prosecution shifts the meaning towards an unnatural defendant in the witness testimony and the closing argument.

Moreover, the prosodies were *slicked off* and *scuff marks* were only used once by the prosecution in collocation to the main prosody *unnatural* (Example 62). *Slicked off* and *scuff mark*s also contribute to the idea of a controlled and premeditated murder, which will be used later on to depict the defendant as a methodical killer along with other prosodies throughout the trial. The negative notion of the unnatural crime scene was connected to an *unnatural* killer, and finally to an *unnatural* defendant.

Other relevant prosodies in the prosecution opening statement, include *ditch* as it is a deviation of the objectively most precise term to refer to the actual location of the crime scene: *creek*. The appropriate, most transparent noun to describe the specific place where the crime was committed is creek; however, instead, it is the more negatively connotated noun ditch that was used by the prosecution four times during the opening statement, as will be presented in the following examples:

Example 63.

- Fogleman: [...] coming through these woods, is smaller, we'll call it a *creek*, it's probably more like a ***ditch***.... running through this wooded area and into this ***ditch***.

Example 64.

- Fogleman: [...] other officers are called to the scene, they secure that area and Detective Bryn Ridge gets into this creek or ***ditch*** and goes inch by inch and finds Michael Moore [...]

Example 65.

- Fogleman: [...] they go further to the south in the ***ditch***, and find Stevie Branch.

On the one hand, a *creek* is a small stream or river, and inlet and bay are its most direct synonyms, with rather neutral connotations. On the other hand, a *ditch* is a long narrow channel cut into the ground at the side of a road or field; its synonyms are gutter and sewer, with clearly more negative connotations[11]. After referring to the crime scene as a ditch, later on in the closing argument, the prosecution emphasizes the action of *ditching bodies as trash*. The importance behind this prosody is that the negative connotation of the verb is put to the defendant, as the prosecution is trying to associate the negative connotation of the place where the crime was committed to the defendant's actions and, thus, his stereotype, already in the making.

The semantically accentuated use of *ditch* is strategic in this corpus as it helps to construct the satanic and anti-systemic stereotype indirectly. The prosecutor's intentions aimed not only at describing how the defendants disposed of the bodies of the dead children, which is something that could be thought to be rather neutral and factual, but also at establishing a strategic lexical relationship: the crime took place in a ditch, and the killer

[11] These lexical definitions were gathered from: Collins Dictionary (n.d.) and Merriam-Webster (n.d.)

ditched the bodies of three eight-year-old children. The semantic prosody in this specific context suggests that the killer decided to discard the bodies in a similar way that they dispose of trash, since the notion of the word ditch is negative, implying that what was being disposed of was worthless; therefore, the corpses of three eight-year-old children are worthless. Even when the defendant, Damien Echols, was not mentioned, using the word ditch shows a greater negative image of him, as it indirectly but suggestively presents him as a sick individual with no remorse or consideration for the bodies of the children, thus further working on the already fertile ground for the increasing and progressive construction of the satanic and religious anti-systemic stereotype.

Regarding the defense opening statement, the most important semantic prosody for the construction of the satanic stereotype is *weird*. Although it had only one occurrence, this adjective shifts directly to similar adjectival use that contributed to the satanic stereotype, such as *satanic*, *evil*, and *Wiccan* in the witness testimony, to be later used also in the closing arguments. Counterintuitively, the prosecution did not use the word *weird* to characterize the defendant as they use the word *satanic* as a result of the progression of the semantic prosody of *unnatural*, not *weird* as it is seen later on in the trial. The prosody *weird* is the first approach to the stereotype by the defense in order to neutralize and counteract the prosecution's future efforts to place the satanic and religious anti-systemic stereotype on the defendant.

Example 66.

- Davidson: You're also going to see that our client Echols, uh, well, I'll be honest with you... *he's not the all American boy*, uhm, he's kind of ***weird***. *He's not the same uh, uh, as maybe you and I might be*. Uhm, that'll be *evident*.

The prosody *weird* leaves in plain sight that the defendant does look different and that there is no question about that as the lawyer says it will be evident as collocation with weird. Although this was a neutralization technique to counteract the pre-existence notions of the defendant, it is considered to be unsuccessful to resist the stereotype being built around the defendant, as it was the defense itself that, still rather uncalled for, constructed the stereotype first by attacking the defendant by saying that he is *weird*.

Deeming the defendant as *weird* is not the same as stating that he is satanic and by making a distinction between him and the jury "*He's not the same uh, uh, as maybe you and I might be*", the defense lawyer contributes to an Us and Them initial construction through a biased and stereotyped image of the Other, in this case, the defendant, that further separates him from the rest of the gregarious society (van Dijk, 2001). Separating the defendant from the jury (constituted as the "twelve good men" that represent society as a whole), then, puts more emphasis on the anti-systemic stereotype shared by the defendant in the case of the Seven of Chicago.

To sum up, the intention of the defense to neutralize the prosecution is a result of the press's full coverage and the overall public idea that people from the defendant's neighborhood had of him. This has to be observed in light of the satanic panic already mentioned in the Methodology section, which mistakenly oriented the police investigation and was exploited by the press at the time of the trial. The satanic stereotype, then, was most likely already framed in the mind of both judge and jury, and so forced the defense to start the trial already resisting it even before the prosecution had settled on this stereotype's strategic usefulness. It is important to highlight that there were no instances of the use of words directly related to the satanic stereotype during this part of the trial, as this was a progressive construction that, though emerging even before the trial, grew gradually more useful to the prosecution's case as the witness testimony unfolded.

During this first stage of the trial, semantic prosodies focused on describing how the defendant was not a typical teenager and the weirdness of the unnaturalness of the crime scene will later be shifted to be all-encompassing of the defendant's characteristics. As seen in example 66 uttered by the defense lawyer "*He is not an All American boy*". In fact, it was never explicitly said that the defendant was a satanist, nevertheless, *weird* and *unnatural* were used to help set him apart from the jury. Even when his defense lawyer conceded that the defendant may be atypical, it was only to suggest that being atypical does not mean being satanic. This is the first stance for lawyers to establish the ground on which the satanic and religious anti-systemic stereotype is going to be built around the defendant to the jury.

The prosodies seen in this part of the trial hint at the satanic stereotype as they aim at the fact that the defendant was not a typical teenager, specifically, not a typical American, because his behavior and physical appearance stepped outside the standard, contributing to

the anti-systemic stereotype that casts him out from the rest of the teenagers. Thus, the construction of the stereotype was not made entirely or solely by the prosecution as the defense described the atypical features of the defendant, contributing to the prosecution's construction of the satanic stereotype through the alienation of the defendant from society.

4.2.1.2 Face threats in the courtroom in opening statements

As stated earlier, identity is the social positioning of the self and others, and it is highly exposed during all kinds of verbal interaction (Brown & Levinson, 1987). This section will present different cases of attacks from some of the courtroom participants to other participants' faces, emphasizing the uses that this strategy is put to in the initial narrative construction/resistance of the defendant's satanic and anti-systemic stereotype. This strategy, as explained before, will be categorized as a defense or attack to the positive face or negative face of the participants.

Opening statements are one of the most critical moments of the trial (McElhaney, 2005; Supardi, 2016), and among other functions, they introduce the positive and negative face that will be attacked or defended throughout the trial. In this context, initial FTAs are hinting at identifying some specific face attributes that may (or may not, depending on their relative effectiveness along the trial) be used later to either construct or resist any tentative stereotypes. Most of the discourse from the lawyers to the jury and the judge is expected to be mostly polite, and equally directed to the ultimate end of strategically constructing the identity of the defendant to the benefit of each lawyer's crime narrative. However, in the following examples, there were FTAs to analyze.

In example 67, it can be seen how the defense attacked the defendant's positive face as the defense lawyer insulted him by calling him weird. Even if this is a mitigation of the adjective satanic, it is still an attack to the defendant's face.

Example 67.

- Davidson: You're also going to see that our client Damien Echols, uh, well, ***I'll be honest with you***... ***he's not the All American boy***, uhm, he's kind of *weird*. He's not the same uh, uh, as maybe you and I might be. ***Uhm, that'll be evident***. But I think you will also see that ***there's simply not evidence that he murdered these three kids***.

On the one hand, in example 67 the defense tried to be sympathetic toward the jury with alleged honesty and, consequently, the lawyer presented a positive self-image of credibility. To point up the weirdness in the defendant, the defense contributed to the honest and unbiased construction of himself by attacking the defendant. Overall, his attitude can be categorized as polite and pleasing towards the jury, and at the same time, a strategic attack towards the defendant. The defense lawyer presents himself as a competent professional in front of the jury, and he also acknowledged that being admittedly weird does not make someone guilty of murder. This is central to the satanic and religious anti-systemic stereotypes as it anticipatedly resisted the prosecution's effort of creating the satanic and anti-systemic stereotype. This is done by strategically (yet, ultimately unsuccessfully, as will be argued throughout the analysis) attacking his defendant in a redressive manner by characterizing him as *weird* and as a person who deviates from what is expected from an American boy. This separation of the defendant and the other participants in the courtroom is particularly emphasized with the final phrase: "*He's not the same uh, uh, as maybe you and I might be*".

In any trial, attacks towards the defendant are naturally expected from the prosecution; nevertheless, as will be seen throughout this trial, the defense lawyer raises unsuccessful neutralizations of the stereotype. Example 67 also contributes to the construction of the stereotype as it emphasizes casting out the defendant by separating him from the rest of the courtroom —and eventually society—. Thus, it creates a strategic contrast between Us and Them (van Dijk, 2001), through the relationship of cognitive differentiation that established an independent self —this time, an admittedly rather harmless outcast— set apart from the rest of the participants (Oktar, 2001) —jury and lawyers alike, all respected members of the system.

Having said this, FTAs are in fact rare in this opening statement. The few instances identified also correspond to the category of promises that will be discussed in the following section.

4.2.1.3 Lawyer's promises in the opening statements

Promises, as already mentioned, are speech acts that, as such, must meet specific necessary conditions to be fulfilled (Austin, 1962); if these conditions fail to be met, the speech act is

infelicitous. In this corpus, promises are formulated implicitly (i.e., without being introduced by the explicit marker "I promise that…"); however, lawyers present their commitments to the jury in such a way that they have to meet the same necessary conditions established for promises and, consequently, were considered as such.

Promises in this corpus, then, are grammatically identified by structures of the noun + will/be going to + main verb type; pragmatically, they are identified as formal statements that commit the speaker to a specific course of personal action. Given the legal and discourse characteristics of opening statements already discussed, both prosecution and defense are expected to make promises to the jury, committing themselves to the successful completion of some stated courses of action.

More specifically, the construction of the satanist and anti-systemic stereotype in this part of the trial corresponds to the instances in which lawyers enhance their stance about the defendant through a 'promise of evidence', as explained above and also summarized next, that will support the lawyer's argument about the defendant. In this part of the corpus, twenty-seven promises of the defense lawyer and sixteen promises of the prosecution were analyzed. The prosecution accounted for ten promises of evidence, while the defense accounted for nine.

The selection criteria for the examples shown in this section were: 1) the use of the specific verbs show and prove, as they imply that the lawyers formally commit to showing evidence and proving guilt or innocence[12], 2) the use of the modal verb will or the semi-modal verb be going to, and 3) the clearest example of how promises contribute to the construction of / resistance to the stereotype.

As stated in the previous case, the corpus has shown two types of promises: 'promise of action' and 'promise of evidence'. The former refers to the lawyer's statements on how they will behave during the trial, and to what the jury should expect the lawyer to do. However, this type was not included in the final analysis, as they did not prove to contribute to the defendant's stereotype construction/resistance. Promises of evidence, on the other hand, show the commitment of the lawyer to produce pieces of evidence that are expected to

[12] As observed in 2.2.5, these promises can be said to constitute simple generic steps in the trial genre. However, especially considering that the jury is not necessarily familiar with any specific traits of this institutional genre, it is safe to assume that they will interpret these constructions as very formal promises, equally subject to the necessary conditions already described, as any other more explicit ones.

shape the narrative that they want to construct. Since promises show a major commitment to what is being said (Schane, 2012).

After the analysis of promises was complete, it did not prove to be as central to the defendant's stereotype construction/resistance as anticipated during the initial and midway stages of the examination. However, promises still persuasively work together with other discourse more prominent strategies also examined in this study to help the progression of the satanic and anti-systemic stereotype. They do so by giving additional strength to the lawyer's statements about the defendant, as it is possible for the jury —composed of regular people—to assume that if the defense or prosecution lawyer states something with enough conviction to promise it, then this mere act suggests more lawyer's credibility.

Promises in this corpus, then, only indirectly help, in the lawyers' construction of the crime narrative that builds/resists the defendant's stereotype, one clear instance of this was presented by the defense, where he stated:

Example 68.

- Davidson: The first thing that I think that ***you will see*** from the testimony that is elicited is police ineptitude… In other words, I think that what ***you will see*** will be ***sloppy police work***. ***I think as you see the case progress, you will see things that the police decided not to do, you will see*** evidence they decided not to send into the crime lab, ***you will see*** leads that they chose not to follow, ***you will see*** people they chose not to talk to and ***I think this is a theme***.

Example 68 shows a very implicit promise that, still, meets the criteria explained above, as the defense did not simply state that the jury *will see* that the police work was poor on their own; it stated (however implicitly) that he, the defense lawyer, *will show* evidence so that the jury can see it. The promise here is, clearly, a promise of evidence, as the defense put attention to the undeniable existence of evidence that could prove that there was police ineptitude by the repetitive use of *you will see*, thus committing to a specific course of action and, then, promising. The importance of this repetition to the construction of the stereotype lies in the defense's claims about evidence that would prove that the investigation was far from effective and meticulous and, as a result of this lack of thoroughness, what the prosecution will state later on during the trial is not reliable. This insistence on the fact that there was evidence to prove it remarks the idea that it is not a blatant murder for a satanic or Wiccan ritual, as there is no real evidence indicating it. Had it been a satanic ritual, there

should have been evidence that showed the murderer's specific intentions, but the defense remarks on the absence thereof as they state that the jury *will see* how the prosecution bases its arguments on *sloppy* police work. In this example, it can be seen the use of promises adds emphasis to what is stated. This promise relates directly to the stereotype as the evidence the police gathered was biased. Moreover, the police were aiming at gathering satanic-related evidence so they could link it to the defendant. This investigation made by the police was *sloppy* as they chose not to investigate certain leads as they did not fit with the stereotype or the defendant.

In addition to this, example 68 suggests that the police worked under biased assumptions as they from the beginning looked for satanic cult followers, consequently, the adequate examination of evidence was disregarded as they were already convinced that they had arrested the murderers. This is a key point in the narrative followed during the rest of the trial since as it was stated by the defense lawyer, the police had 'Damien Echols tunnel vision': they were already convinced that the defendant was guilty, so they only focused on the pieces of circumstantial evidence that could incriminate him. Due to this and the use of references to both evidence and testimonies to prove the defense narrative, the previous statement is categorized as a 'promise of evidence'.

The defense tried to politely come closer to the jury with the use of the mitigating clause *I think as you see the case progress* as well as the summary statement *I think this is a theme*, where he explicitly topicalizes the satanic stereotype, which helps the defense to resist the satanic and anti-systemic stereotype on the grounds of police bias and ineptitude. This, alongside the use of *you will see* settles the first ideas of police action in a strategically tentative manner, as to avoid adamant comments that are unwelcome by a jury that had already been exposed to (and probably most intimately shared) the public's negative opinion of the defendants' portrayal on the media during the investigation.

Another promise regarding the stereotype is seen in the following examples of the prosecution:

Example 69.

- Fogleman: In this area, ***the proofs going to show*** that right ***in the area where Michael Moore was*** [...] ***the proofs going to show*** had been, uh, ***slicked off***, or like ***scuff marks***, ***unnatural marks*** to the area, **w*here as the area right beside it had leaves on it, and didn't have that***

> ***appearance***. There's ***no blood. No blood***. At all. [...] Now as the proof develops, there's, I want to tell you in advance, ***there's going to be*** a lot of testimony from the Arkansas crime laboratory and some of this evidence is gonna be what we call I guess you call it ***negative evidence***. It doesn't show a connection to anybody.

In example 69, the semantic prosodies such as the repetition of *no blood* are inevitably connected with the promises. In this sense, the prosecution highlighted not only that the area where the bodies were found looked suspiciously different from the surrounding areas, but also that this would be considered evidence as the area was allegedly cleaned by the person(s) who committed the crime. With this, the prosecutor implies (to later in the trial directly state) that the defendant is far from being a misunderstood teenager, but is instead a methodical individual: if the area where the children were found was cleaned afterward, then the crimes were premeditated. Owing to these connections, the defendant must have been a cold-blooded killer with the time and mental clarity to clean the crime scene after himself.

The apparently counterproductive admission of the prosecution that there is no physical evidence is strategically presented not as a prosecution's weakness, but as a solid argument: "*There's no blood. No blood. At all*." This is further supported by stating that there is going to be negative evidence "I guess you call it *negative evidence*. It doesn't show a connection to anybody" (example 69). Repetition from the prosecution in this phrase is part of the strategies used by lawyers to be persuasive, and it is an effective way to strategically emphasize what it was said (seen in 2.1.2). Since it is known that blood is an important element in satanic rituals, the lack of it at the crime scene would suggest that the victims' blood was taken from them and used for satanic purposes. The fact that there was *no blood* was aimed at the same idea that the semantic prosody *unnatural* (As seen in example 69), which is related to the creation of the idea of a methodical and premeditated murderer. Moreover, the fact that they highlighted that there was no evidence, left in plain sight that the substance of the trial was based on a stereotype, not actual proof.

Throughout the trial, this relation between the evidence and the defendant will add to the construction of the stereotype. The lack of physical evidence or as the prosecution mentioned "negative evidence" is oddly but strategically transformed by the prosecution into evidence. This lack of evidence, then, is now shown as proof that the defendant is a sane and highly methodical individual, suggesting (and later in the trial, claiming) that this is indicative of a planned satanic ritual —as a ritual cannot but be understood as an organized, previously

planned activity. Thus, as there are not any traces of physical evidence, in the end, the narrative built is solely based on the stereotype that it was a satanic ritual, and it implies the idea of a criminal mastermind that premeditated the murder, that is to say, a satanist that carefully organized his ritual.

Example 69 also shows how the idea of the murderer was not only that of a careful and organized person but also an inhumane one, which suggests he had no respect for the children as the scene was cleaned in an *unnatural* way, hinting at the satanic stereotype that is going to be built. This is achieved by the use of comparisons between the area where the body of one of the victims was found with the surrounding areas, as demonstrated by the statement *whereas the area right beside it had leaves on it, and didn't have that appearance*. The use of the phrases *slicked off*, *scuff marks*, and *unnatural marks* also further develops and links the mentioned conceptions about the murderer and their belief system as *unnatural*, which contributes to two intertwined ideas: a ritual by a satanic person, and the murder being born out of a deviation of a belief system, which is a direct mention to the religious anti-systemic stereotype.

In the following stage of the trial, the construction/resistance of the stereotype and its evolution throughout the trial is more evident, as there is more aggression between participants and, also, semantic prosodies are more directly linked to the satanic anti-systemic stereotype.

4.2.2. Narrative construction in witness testimony

This section presents and discusses the findings on the progression of the construction/resistance of the defendant's satanic and anti-systemic stereotypes in the defense's direct examination and the prosecution's cross-examination of the defendant's testimony. It examines the type of questions asked by the lawyer and the type of answers from defendant Echols, and as in the previous corpus, attention is paid to semantic prosodies and FTAs in this dialogical part of the trial.

Witness testimony is a key part of the trial, first and foremost because this is the stage where the actual evidence is presented and confronted for the benefit of the jury, but also due to the relevance of the witness's questions and answers that can either reinforce or resist the defendant's stereotype in progress. During witness testimony, it is also key to examine the

development of semantic prosodies and the use of FTAs, and overall aggression in the courtroom in the progression of the stereotype.

This section, then, focuses on the progression of the stereotype pushed by the prosecutor, the reaction of the defendant, and the efforts of the defense to neutralize and resist the stereotype.

It is important to mention that before the defendant's testimony, expert witness Dale Griffis (among several other witnesses) had already been called to the stand by the prosecution, and colorfully testified about satanic rituals and occultist sacrifices, as this was his expertise (though this debatable expertise was openly questioned and objected by the defense, whose efforts to exclude this witness were swift —and quite unfoundedly— disregarded by the judge). As stated earlier, experts have a better level of reliability and credibility in comparison to regular witnesses, as they are expected to base their testimony on their professional judgment (Stygall, 2012). Experts are also regarded as reliable authorities in their specific areas, which makes their opinions, beliefs, and knowledge to be accepted by others with little to no contradiction (van Dijk, 2001). Therefore, the fact that the first witness contributed to the stereotype settled the ground for the strengthening of the stereotype through the course of the trial.

In addition to this, Detective Bryn Ridge also contributed to the satanic stereotype during his examination by the prosecution. These and other witnesses taking the stand prior to the defendant had already contributed to the stereotype being built, as their participation emphasized the satanic stereotype already portrayed in the press and slightly emerging in the opening statement, which is now further and more solidly embraced during this part of the trial. It is in this context, after several witnesses had already helped in the construction of the satanic stereotype, that the defendant takes the stand.

4.2.2.1 Semantic prosodies in witness testimony

As stated previously, during witness testimony, lawyers from the prosecution and defense have a potentially powerful opportunity to strategically ask direct questions to their witnesses. This section will present and discuss different examples that show how semantic prosody, in the formulation of the questions and answers both by the prosecutor and the defense lawyer, construct or resist the satanic and religious anti-systemic stereotype. The

powerful words that are semantically accentuated and identified as such during this part of the trial are not randomly used, as they are essential to the planning of the macro-strategy at work behind the production of specific utterances (Stewart, 2010). Thereupon, they helped the prosecution and defense build their cases with words that had the potential to influence the jury's opinion concerning the stereotype.

This section presents the main findings related to the semantically accentuated words that are most typically used by the prosecutor and defense lawyer while constructing their questions to the defendant, as well as an analysis of those words present in the defendant's answers. Coupled with this, these results will be compared to those found in the opening statements to establish the progression of the stereotype construction/resistance in order to analyze how the construction of the satanic anti-systemic stereotype progresses throughout the trial.

The defendant's answers during both direct examination and cross-examination mainly contribute to the construction of the satanist stereotype, due partly to his own relative acceptance of certain elements of the stereotype that were projected onto him. This contribution was possible due to the counterproductive attempts made by the defense to neutralize the satanic stereotype, as the defense's questions guided the defendant to make direct mentions that related him to the stereotype that not only did not succeed at neutralizing it —the only intended goal when bringing up information that is evidently detrimental to the witness—, but actually strengthened it. The questions asked by the defense prompted the prosecution to further try to establish the satanic and anti-systemic stereotype onto the defendant.

Both questions and answers during the defendant's testimony were highly influenced by the testimony of several witnesses (detective Bryn Ridge, defendant's ex-girlfriend Deanna Holcomb, and expert witness Dale Griffis) called previously by the prosecution that reinforced the defendant's satanic and anti-systemic stereotype. Semantic prosodies were identified that directly aimed to portray the satanic stereotype of the defendant, which started to appear during other witnesses' testimonies, specifically during Dale Griffis's, who was an expert on occultism (though his expertise was controversial in the trial). In the same fashion, the key semantically accentuated words identified in the opening statement were also followed in this second trial stage to examine their evolution, as it is important to see what

elements are or are not progressively proving their contribution to the stereotype construction/resistance.

In this section, more key semantic prosodies were identified when compared to the opening statement. This can be explained as they are strategically accumulating through the stages of the trial, in a constant and incremental adjustment where lawyers adjust or emphasize those strategies that have already proven effective, and leave aside those which did not. With this said, the semantic prosody *weird* in the opening statement was replaced by *satanic*, *satanist*, and *Wicca* in this part of the trial uttered by the lawyers in their descriptions of the defendant, the defendant's interests, or the crime narrative. In this sense, *weird* functioned as a stepping stone to the most accentuated words present in this section. This evolution of the semantic prosody *weird* is one of how it is possible to observe the progression of the construction of the satanic and religious anti-systemic stereotype.

The semantically accentuated words and phrases identified during the opening statement were *ditch*, *weird*, *unnatural*, *not the all American boy*, and *dump*. These keywords were the fundamental base for the construction of the satanic and anti-systemic stereotype of the defendant. Surprisingly, almost none of these words was used during the witness testimony, except for the adjective *weird*, which was used only twice, by the defendant, during the direct examination as a description of how people perceived him because of his black clothing.

The use of *weird* by the defense lawyer helps to construct the identity of the defendant in contrast to the stereotype: he is weird but that is not related to satanism. The use of *weird* was collocated with the adjective *black* referring to black clothing, as the defense tried to neutralize the characteristics that are stereotypical in a satanist: black clothing.

Example 70.

- Price: Did - how did other people at school look at you because of the way you dressed in ***black*** all the time?

  Echols: They thought it was kind of ***weird*** at first - stayed away. But then, after a while, a few of them started doing it too, so…

  Price: OK. Now a lot of them didn't start ***wearing black*** all the time. Right?

  Echols: Right.

As it can be seen in example 70, the idea of the defendant being *weird* is related to the way he dresses, this notion of the satanist wearing black is reinforced later on in the trial when the defendant was asked about his clothes by the defense, with an emphasis on the color of it as it is seen in example 71.

Example 71.

- Price: [...] you like to wear ***black***. Did you have a preference of what type of color clothing you liked to wear?

  Echols: ***Black***.

  Price: And why was this?

  Echols: I was told that I look good in ***black***. And I'm real self-conscious, uh, the way I dress. [...] when I was dressed in ***black***, I didn't really have to worry about it [...]

It can be seen how while the prosecution is trying to link black clothing to satanism, as seen in example 71, the defense is trying to resist the satanic stereotype through the defendant's reason behind his clothing choices, strengthening his identity in contrast to the satanic stereotype. Although this attempt of the defense to resist the stereotype may seem productive in the short term as it helps to emphasize that the reasoning behind his clothing choices is not linked to satanism, it just sheds light on the stereotype and not the lack of evidence from the prosecution which in hindsight makes a counterproductive attempt.

Example 72.

- Davis: And it is your testimony that you are just interested in ***Wiccan religio*n** and nothing involving the ***black witchcraft*** or ***satanic*** practices?

  Echols: I'm interested in it. I read it, but I don't practice it.

The prosodies seen in example 72 are directly referencing the satanic stereotype as it mentions *black magic*, *black witchcraft,* and *human sacrifice*, which are unmistakably deemed as going against the values of Christianism hence, enhancing the religious anti-systemic stereotype. This further gives the idea that the defendant had more knowledge about the topic and further solidified the satanic stereotype onto him. In contrast, the defense used

the adjective *black* related to clothing to open the door for the defendant to explain his clothing choices, as seen in example 71.

The semantic prosodies that are to be analyzed are not included in the opening statement as they started to be used during this section of the trial. During the direct and cross-examination, several semantic prosodies were found, such as *satanism, satanic* and *satanist*. These semantic prosodies originated from the progression of the adjective weird to describe the defendant more straightforwardly and stereotypically as they are directly related to the satanic and religious anti-systemic stereotype. These lexical choices are made by the prosecution and defense lawyer, but with obviously different purposes. The use of *satanism*, *satanic*, and *satanist* by the defense is seen in the following examples:

Example 73.

- Price: Did the choosing of the name "Damien" have anything to do with any type of horror movies, ***Satanism***, *cultism*, anything of that nature?

  Echols: Nothing whatsoever.

Example 74.

- Price: As far as several things that Griffis was talking about yesterday about ***satanism beliefs***, are there any of those things that he was talking about that are your personal beliefs?

  Echols: Not really my personal beliefs. Some things I might have in common.

Example 75.

- Price: Did that ever have anything to do with you being any type of a ***Satanist***?

  Echols: No.

Example 76.

- Price: Did that skull have any type of ***satanic*** meaning?

  Echols: No, it did not.

It can be seen in example 73, that he was asked as a direct attempt by the defense to clarify some misconceptions promoted by the media, such as the reason behind the defendant's change of name. The word satanism was used five times by the defense. Regarding example

73 and its relation to the stereotype construction, it was believed that the defendant changed his name from Michael Wayne Hutchison to Damien Wayne Echols for the movie *The Omen* (1976). In this movie, a character named Damien was portrayed as the son of Satan and as the Anti-Christ. After the movie's release, several cults and groups of fanatics of the occult started using the name to represent evilness and Satan (Davis & Davis, 2017). The defendant denied that his name was inspired by this movie or anything related to satanism or cults: "*I was very involved in the Catholic church, and we were going over different names of the saints. [...] Father Damian, that took care of lepers until he finally caught the disease his-self and died*". By clarifying the reason behind the change in name, the defendant separated himself from the satanic stereotype surrounding his name and built his identity, which is also seen in example 74 that he separates himself from the stereotype by stating that satanic beliefs are not part of his personal beliefs.

The word *satanist* used by the defense was an attempt to mitigate the satanic stereotype, as seen in example 75. This semantic prosody was used two times by the defense. In that example, it can be seen how the defense is directly mentioning the stereotype for the defendant to deny his involvement in satanism. This was a short answer by defendant Echols. Nonetheless, it helps to see the clear use of questions by the defense with a semantically accentuated word guiding the stereotype for them to be denied.

Regarding the adjective *satanic* in example 76, it is noteworthy that the word was used eleven times during direct and cross-examination. During direct examination, defense lawyers formulated questions using the adjective *satanic* on two different occasions, as an attempt to neutralize the construction of the prosecution's intended satanic stereotype regarding a skull found in the defendant's bedroom. The first time this semantic prosody was used during the witness testimony was by the defense, thus opening the door for the prosecution to explore areas that, in hindsight, proved to be extremely detrimental to the defense's case.

During the defense questions (examples 73, 74, 75, and 76), semantic prosodies were found to serve the purpose of rejecting what was imposed by the prosecution. The prosecution, on the other hand, used the prosodies satanist, satanism, and satanic in this manner:

Example 77.

- Davis: Okay. And your response was that the person [who committed the crime] was sick or a ***satanist***, is that correct?

  Echols: He [Officer Rigde] asked me was it possible if they could be a ***satanist***, and I said, "Yeah, I guess."

Example 78.

- Davis: You have talked about -- Mr. Price went on and on about this book with the upside *down crosses,* all these insignia and the trappings of ***satanic*** *beliefs* and this photograph with the person up on the *alter* with the *goat's head* -- is that white magic type stuff?

In example 77, the prosecutor linked the defendant's answer during the police interrogation about the possible murder, establishing a connection between a person who was a satanist and the defendant, who tried to answer with his previous knowledge about satanism, reinforcing the satanic stereotype. The prosody *satanist* was used four times by the prosecution in an attempt at demonstrating to the jury that the defendant did know about satanism. Even if the defendant did not give statements accepting being a satanist, his rather naïve cooperation in answering questions regarding the topic made his resistance to the stereotype harder.

During cross-examination, the use of the adjective *satanic* expectedly changed, as is seen in example 78. Before that, during the defense's questioning of the defendant's witness, it was used as a strategy to neutralize the oncoming prosecution's stereotyping move and, also, to clarify some biased misconceptions stated by the media and the prosecutor's witnesses. Now, during cross-examination, the semantic prosodies identified as reinforcement of the satanic anti-systemic stereotype were used by the prosecutor nine times, and they all intended to link the satanic characteristics to the defendant's identity throughout the witness testimony.

The word *satanic* was used by the prosecution nine times and it carries two meanings: the first is "of, relating to, or characteristic of Satan or satanism" and the second is "characterized by extreme cruelty or viciousness" ("Satanic," n.d.). Both senses are here combined to refer to the set of beliefs that satanist groups have, but also to illustrate how cruel these beliefs are, which is also coherent with the cruelty and viciousness of the crimes. The word satanic also dramatically contrasts with the belief system —Christianism— of the vast majority of the people in Memphis at that time (Davis & Davis, 2017). The basic binary

oppositions between Satanism and Christianity, good and evil, are fertile ground for the strengthening of yet another binary concept, Us and Them, where all those who are good and Christian must stand up against that who is Satanic and evil, thus setting far aside the good society, on the one hand, and evil defendant Echols, on the other.

The words *religion* and *beliefs* were more recurrently used by the defense lawyer to neutralize the admittedly negative lexical associations previously brought up by the prosecution. He formulated questions using the semantic prosody *religion* seven times, and *beliefs* a total of eight. There was only one instance of collocation that relates to Wicca, but there are no collocations with *satanic.* Examples of these prosodies are seen as follows:

Example 79.

- Price: Was there - after the - before you were studying about the *Catholic* ***religion***, was there another ***religion*** that you were really concentrating and focusing on?

  Echols: No more than the *Catholic*.

  [...]

  Price. Did he ask you about some *Wiccan* ***beliefs***?

  Echols: Yes.

The collocations of *Wiccan beliefs* and *Catholic religion* are used to neutralize the stereotype by stating that he was not interested in other religions than the Catholic one (as seen in example 79), which helped them relate to the jury as a Catholic person. Moreover, the defense emphasized the fact that the police asked the defendant about his set of beliefs, which suggests that the investigation of the police corps was biased.

On the other hand, the prosecutor lawyer mentioned the word *religion* three times and *beliefs* two times, with *Wiccan* and *satanic* as a collocation, respectively. This can be seen in the following examples:

Example 80.

- Davis: When you tattooed the "Evil" on the knuckles, is that significant in *Wiccan* ***religion***?

  Echols: No.

Example 81.

- Davis: You have talked about -- Mr. Price went on and on about this book with the upside down crosses, all this insignia and the trappings of *satanic* ***beliefs*** and this photograph with the person up on the alter with the goat's head -- is that white magic type stuff?

  Echols: No, sir.

Example 82.

- Davis: And it is your testimony that you are just interested in *Wiccan* ***religion*** and nothing involving the *black witchcraft* or *satanic* practices?

  Echols: I'm interested in it. I read it, but I don't practice it.

Example 83.

- Davis: Is evil kind of a primary premise of the *satanic* ***beliefs,*** the belief in evil and that evil brings you power?

  Echols: From what I have read, most of their beliefs involve around self-indulgence.

The use of *Wiccan religion* in examples 80 and 82 and *satanic beliefs* in 81 and 83 by the prosecution are directly related to the satanic and religious anti-systemic stereotype as they explicitly mention it.

In examples 80 and 81, the defendant resisted the stereotype as he did not cooperate with the question asked. On the contrary, in examples 82 and 83, the defendant did not resist the stereotype as he partially accepted it by confirming his knowledge about satanic beliefs and his interest in the Wicca religion. The acceptance of his interest in Wicca can be seen as a construction of his identity; nevertheless, this distinction is not beneficial for the resistance to the stereotype.

As it was seen, the words that were semantically accentuated were adjectives related to the stereotype of the defendant Echols being a satanist and the nouns *religion* and *beliefs* that share co-text with *satanic* and *Wiccan.*

Another semantic prosody used during witness testimony is *evil*, it was used three times by the defense in direct examination, and seven times by the prosecutor in cross-examination.

Example 84.

- Price: What was the reason that you had "***evil***" tattooed on your hand?

  Echols: I had this t-shirt, it had a hand holding a hammer. It was for the "...And Justice For All" tape. And across the hand some of the groups of *Metallica* they have things like, um, "*hate*," "*fear*," "***evil***," things like that [...] I just kinda thought it was cool, so I did that.

In this example, the prosecutor asked the defendant Echols about his tattoos and their possible relation with the Wiccan religion or satanic beliefs, since the defendant had tattooed the word evil. In example 84, the defense prompted the defendant to resist the satanic stereotype by allowing him to tell the jury that the reason behind his tattoo was harmless, and it only referred to the defendant's music preferences. Nevertheless, this soft and partial acceptance of the stereotype made the defendant's answer fruitful in reinforcing the satanic and anti-systemic stereotype, as the fact that he admitted enjoying heavy metal also made it seem as if he was accepting the satanic stereotype due to the general misconceptions about this musical genre.

In contrast, the defense only used the word *evil* to neutralize the previous prosecution's reference to a journal the defendant had, as it had poems and lyrics that were related to metal bands and literature. The prosecution deemed the journal as satanic without taking into consideration the origin of the quotes that were written in it, which is why the defense directly mentions the content of it to neutralize the satanic stereotype as seen in excerpt 85:

Example 85.

- Price: Did you ever use any of that material there to *conjure up* any ***evil*** or anything of that nature?

  Echols: No.

Concerning the progression of the stereotype, it is seen that in this part of the trial the prosecution was building the stereotype without any subtleties and in a more straightforward manner than during the opening statements, as their success with previous witnesses makes them aware of the fact that this narrative and persuasive line is working with both judge and jury. In this context, it was seen that the semantically accentuated words mentioned during the opening statement did not have more occurrences during this part of the trial such as ditch. The noun *ditch* seemed to be forgotten during the witness testimony as it has zero

occurrences, but it was included in the opening statement as it helped to set the idea of the crime scene that was used with remarked strength during the closing statement with the use of it fifteen times. Moreover, the adjective *weird* was used only one more time than it did in the opening statement and it was replaced with adjectives with a heavier negative connotation as it is *Wiccan*, which was used five times by the prosecution and five by the defense and *satanic*, used nine by the prosecution and twice by the defense.

To sum up, choosing a lexical item over another has a great impact on the satanic and religious anti-systemic stereotypes being developed, as it is not a result of the word chosen but the effect it has over the rest of the context as semantic prosodies do not function in units, they are processed as a complex group of intertwined concepts and its collocations in co-text.

The evolution of semantic prosodies now across the two first stages of the trial (namely, opening statements and witness testimony) allows to see that discourse (and also legal) strategies are dynamic, always adjusting to the relevant context. As such, some semantic prosodies that proved useful in the opening statement are resumed (with or without some adjustments) during witness testimony, or else abandoned in favor of others that are so far showing more effectiveness.

4.2.2.2 Types of questions in witness testimony

Questions during witness testimony are put to work to several uses: for the lawyers, to persuasively present evidence, to tell a story that fits their theory of the case (and, in so doing, often building relevant stereotypes), and to remark gaps in the evidence presented on the opposite bench, even if this latter function is more prominent in the closing argument. For the jury, testimonies allow them to directly hear what the witnesses answer during every interaction with lawyers and, thus, construct their own version of the crime narrative.

In this section, the focus will be put on what the defendant has to say, which is regulated by the type of questions he is asked. Considering the power of questions, then, it is in fact the lawyers who have the strategic interactive control of the crime narrative being told —though they are, also, subject to the judge's rulings on the counterpart's objections, and so their control is far from being unlimited.

With all these considerations in mind, this section presents the main findings in the progression of the stereotype in relation to the type of questions asked by the prosecutor and

defense lawyers in the witness testimony of the defendant. The total number of questions in this witness testimony was 643. Nevertheless, only the 43 questions that showed the connection to the construction/resistance of the stereotype were analyzed, specifying in each case 1) the grammatical elements connected to the formulation of the question, and 2) the lexical items that indicate the purpose of the question. The most frequent type of questions in this stage of the trial is Wh- and polar questions. When closely examining each instance, it was identified that they all had a guiding purpose: both types of questions were used to guide the answers of the defendant to resist or even embrace (as will be explained below) the stereotype.

The questions asked in both direct and cross-examination were mainly based on the defendant's characteristics as a person, and not on the evidence that the prosecution has the burden to produce. The vast majority of the interrogation was focused on personal information about the defendant's past and personal characteristics in both direct and cross-examination. This information is important to develop the satanic and anti-systemic stereotype as the construction of a fitting stereotype is not only a side strategy in this trial: the stereotype is in fact being constructed as evidence, however circumstantial, to prove the defendant's guilt beyond any reasonable doubt.

To illustrate the progression of the stereotype enforced upon defendant Echols, the following example of the direct examination constitutes a highly representative instance of the resistance to the stereotype set forth by the defense lawyer. The question was intended to allow the defendant to clarify misconceptions and stereotypes placed upon him (mostly by the press), and in so doing he did resist the stereotype.

Example 86.

- Price: Did the choosing of the name "Damien" have anything to do with any type of horror movies, ***Satanism***, cultism, anything of that nature?

  Echols: Nothing whatsoever.

Example 87.

- Price: Did you ever tell Ridge that water was a ***demonic force***?

  Echols: Most of the questions he asked me were like yes or no questions. When I would say no, he would start, do you suppose, something like that. Yeah, I guess so.

As an instance of a polar question, its formulation expects a yes or no answer, which in the context of example 86 makes it a guiding question. It aims for a specific answer that resisted the stereotype by stating that his name is not related to satanism and that if during his police interrogation he had answered something that the prosecution could bring up in court, it was only because he was led to give specific answers by detective Ridge. In example 87, the defense lawyer did a direct mention to the stereotype by recalling the police interrogation when he was asked if water was a *demonic force*, which is related to the alleged motive behind the crime, to which the defendant did not accept nor reject. This is an example of a counterproductive effort from the defense for the defendant to resist the construction of the satanic and religious anti-systemic stereotype, as it is also seen in example 88 in which the prosecution used this prosody introduced by the defense.

Now, regarding cross-examination, questioning is mostly associated with the formulation of leading questions (i.e., questions that somehow suggest or include the expected answer, which is not legally acceptable during direct examination), which lawyers materialize by asking yes/no questions, tag questions, or questions with a rising tone at the end that look for simple confirmation (Stygall, 2012). This legal typification of questions is closely related to the idea of guiding questions, though as seen above, are used by both defense and prosecution. A guiding question is seen in the following example in the cross-examination:

Example 88.

- Davis: Is ***evil*** kind of a primary premise of the *satanic beliefs*, the *belief* in ***evil*** and that ***evil*** brings you *power*?

  Echols: From what I have read, most of their *beliefs* involve around self-indulgence.

This polar question highlights *evil* in relation to the sense of *power* which is also related to *demonic force* as these three concepts are aiming at a negative connotation of the defendant's alleged motive behind the satanic killing of children. Its main purpose was to connect defendant Echols to these notions, as the general public relates them to satanism. The semantic prosodies here are clearly and unambiguously set off to the stereotyping ultimate end. As seen, the defendant's answer shows resistance; however, not as strong as the jury

may have wanted to feel certain of the defendant's distancing from the idea of evil. Another example of questions that construct the stereotype during cross-examination is seen as follows:

Example 89.

- Davis: Mr. Echols, when you have these mood swings and your medication is out of balance, do you have, ***do you get violent sometimes***?

  Echols: Only toward myself.

  [...]

  Davis: So your acts of ***violence*** toward other people have been the result not of any ***medication*** but just, just out of anger?

  Echols: My ***medication*** doesn't affect how I deal with other people.

In this part of the testimony, the prosecutor asked the defendant about his mental health issues, his medication, and his anger, which may involve violent episodes and mood swings. The topic itself is aggressive and simultaneously threatens the defendant's positive and negative face, as it involves sensitive information about the defendant, who had already stated that was under treatment for his manic depression. The idea of being a violent maniac is also connected with the satanic stereotype because it can represent an explanation for his unsettling behavior. Coupled with this, the question itself seen in example 89 was formulated as a polar question with the auxiliary verb 'do' that only expects a yes/no answer.

To further analyze how witness testimony makes the stereotype construction progress, and how the defendant either puts resistance to the stereotype or not, answers will be analyzed in the upcoming category.

4.2.2.3 Types of answers in witness testimony

The defendant's answers to the prosecutor and the defense lawyer were divided into two categories: 1) answers that *resist* the stereotype, and 2) answers characterized by an *absence of resistance* to the stereotype enforced upon him. The categorization is necessary to convey the defendant's contribution or resistance to the stereotype. In these two categories, examples between the defendant and both prosecution and defense lawyers will be analyzed. This

analysis considers some aspects of the social cognitive theory and the social identity theory as stated during the previous case (Wodak & Reisigl, 2015).

Regarding general findings, it is possible to sustain that the defendant defended himself from the prosecution's attacks. These questions were highly aggressive and, most of the time (as seen previously), they were intended to elicit only a yes or no answer. Through a rather laconic, detached style —that may have not been beneficial to the jury's perception—, the defendant answered the questions in regard to his own identity, mostly trying to mark himself as different from the satanic anti-systemic stereotype. However, a few exceptions to this tendency will be further presented with the categorization and analysis of the defendant's answers to the questions asked by the prosecutor and defense lawyer.

The answers examined were mostly explanatory, widely descriptive, and most importantly, they denied the connection between his identity and the stereotype of Satanic attached to the guiding questions asked by the prosecutor and the defense. This section shows some of the most illustrative examples of the forty-three answers analyzed out of a total of 643 answers in the corpus.

4.2.2.3.1 Resistance to the stereotype

Although the vast majority of the defendant's answers were aimed to resist the stereotype it will be presented the best examples to illustrate this. Example 90, extracted from the direct examination, where the questions formulated by defense lawyer were an open invitation whose purpose was to allow defendant Echols to freely elaborate a description of his identity, especially regarding those aspects that are being and will be linked to the satanic stereotype: his hobbies, interests, and beliefs. In his answer, the defendant explained the ordinary things he likes, which separated him from the stereotype and placed him closer to a typical seventeen-year-old boy.

Example 90.

- Price: OK. Tell the ladies and gentlemen of the jury a little bit about what type of things you enjoy doing as far as your interests and hobbies and things of that nature.

  Echols: For a few years, ***I really enjoyed skateboarding***. It was like it was all I lived for, for awhile. Um, I ***like movies about any types of books, um, talking on the phone, watching TV.***

The defense's question allowed the defendant to portray himself as one of 'Us', which helped to create a less alienated representation of him. The lawyer made the defendant tell the jury what his hobbies were in order to present him as a normal person without odd interests, as his answers are general enough to be applicable to anyone. This is a clear example of the way in which the defense is trying to resist the stereotype of a satanist and anti-systemic defendant, by showing him as a regular teenager.

The following two examples (91 and 92) represent interactions of the defendant's resistance to the satanic stereotype during the cross-examination by the prosecutor. As mentioned, the most important selection criteria are the semantic prosodies found in the question and the strength (or lack thereof) of the defendant's resistance to the satanic and anti-systemic stereotype.

In example 91, the prosecution asked a guiding question by means of declarative statement, meant only to be either confirmed or denied, much like a polar question. In this regard, the defendant elaborated more upon the expected yes/no answer, taking the opportunity to resist the satanic stereotype that is linked between his beliefs and actual satanic practices, and distinguishing his identity from the stereotype. Nevertheless, to successfully resist such a negative stereotype might have required, to the eyes of the jury, a more adamant and dramatic denial than the one expressed by the defendant below.

Example 91.

- Davis: And it is your testimony that you are just interested in *Wiccan religion* and nothing involving the *black witchcraft* or *satanic practices*?

  Echols: *I'm interested in it*. I read it, but ***I don't practice it.***

In this example, it can be seen the partial resistance of the stereotype by the defendant of the religious anti-systemic stereotype as he admitted being interested in Wicca religion even if he does not practice it. Contrastively, in example 92, the prosecutor asked questions about the defendant's answers to detective Ridge during the initial police interrogation. In response, he showed stronger resistance to the religious anti-systemic stereotype by denying giving any

incriminatory statements whatsoever. Instead, the defendant said, rather too informally for the context, that detective Ridge had "*made up a lot of stuff*" when transcribing his statement and "*so far*", up to the present trial.

Example 92.

- Davis: So when he put down in his response to that question, "Heard that they *drowned,*" he made that up, too? *That just isn't true*?

  Echols: ***They made up a lot of stuff so far*** –

  Davis: -- Answer my question –

  Echols: -- ***No, it is not true***.

The question asked by the prosecutor pointed to those parts of the police interrogation that were linked to the narrative of the crime. This narrative is key to stereotype the defendant as a satanic practitioner, as he would have knowledge of the crime, the prosecution tried to link the crime to the defendant in the only imaginable way given the absolute lack of incriminatory physical evidence. This particular example, ending with the confirmatory clause "*That just isn't true*?", is formulated to elicit a yes or no answer; however, what is most important in the defendant's response is that he made clear that during the interrogation he was being asked coercive questions that established the beginning of the construction of the satanic and anti-systemic stereotype upon lies and incriminatory questions and statements from the police department.

Along the same line, in example 92, it can be seen not only the aggressive way in which the prosecution lawyer addressed the defendant attacking his negative face by giving an order ("*Answer my question*"), but also how the prosecution recalled the police interrogation, which for the defendant is an instance that has been manipulated through the trial. This is important as he made it clear that the prosecution, when mentioning anything relating to the police interrogation, was not reliable as the police and the prosecutor lawyer have lied about what was said that was found during the investigation. That turn helps him

separate himself from the stereotype as he states that there are several things that the police corps simply invented.

The defendant's answers during his witness interrogation consistently showed the intention of setting the difference between his characteristics as a regular teenager and his own beliefs, and the stereotype he was being stigmatized with. Nevertheless, his selection of words was not neutral enough to resist the stereotype as he showed his understanding of satanism. Given the seriousness of the crime and the penalty he was risking, his resistance to the satanic and religious anti-systemic stereotype seems rather dispassionate, there was clearly room for more serious and strategic answers on his part. As primacy (Stygall, 2012) seems to explain much of what happens in this trial, the defendant's need to revert the opinion that the jury already had of him would have probably been better met if he had shown a more active position in his denials.

4.2.2.3.1 Absence of resistance to the stereotype

As explained in the section above, though not as categorically as he may have had, the defendant did resist the stereotype both in the direct examination and the cross-examination. It was expected that the defendant's answers during direct examination would not show absence of resistance to the stereotype, as in fact no stereotyping was expected during friendly examination. However, as discussed above, the defense did bring up features of the stereotype in order to neutralize them, though these efforts were not successful. Now, despite the rather counterproductive defense lawyer's questions that suggested instead of clearly denying the prosecution stereotype, the defendant still did not show any instances of absence of resistance to the satanic anti-systemic stereotype during direct examination. In sum, even if the defendant was rather laconic in his answers to his legal representation, he did take every opportunity he could to resist or partially resist the stereotype being assigned to him.

Interestingly, during cross-examination it was possible to find occurrences of the defendant's absence of resistance to the stereotype; in any case, the defendant embraced this stereotype as his identity, showing immaturity and lack of strategy. During this part of the

cross-examination, the prosecutor addressed police officer Ridge's interrogation. The strategy used in the police interrogation was to ask for the defendant's hypothesis of the murderers' intentions while committing the crime. The defendant responded according to his previous knowledge about satanism and philosophy, which he called *common sense*. During the testimony, that answer was recalled by the prosecution on numerous occasions (examples 93, 94, 95), and the defendant explained once again what he thought about the motive behind the crime. This answer was not helpful to resist the stereotype, as he separated himself from the rest of the courtroom —and more importantly, society— by depicting himself as someone with more satanic knowledge than the common people.

Example 93.

- Davis: Were those your words when you referred, when you've got written down here, you stated there was no control of the *demonic* portion of people?

  Echols: He asked me did I think there were some people that could not control that side. And I said, "Yes, I guess there is."

  [...]

  Davis: Is that something you have read about in some of your books and things and literature you studied?

  Echols: Not really. It's ***common sense.***

Example 94.

- Davis: "Probably makes them feel good, gives them *power*." Now, I guess Officer Ridge said that, too?

  Echols: No, I used ***common sense*** on that. If someone was doing it, then they must have wanted to. And if they were doing something they wanted to, it must have made them happy. I don't think they were doing it because someone forced them to or because they didn't want to.

Example 95.

- Davis: And is that also part of the ***common sense*** that whoever *kills* eight-year-olds can feel good and whoever *kills* eight-year-olds would like to hear them *scream*, is that part of your ***common-sense*** philosophy?

  Echols: I figured they must have if they did it.

As exemplified in 93 and 94, the use of the phrase "*common sense"* in the defendant's answers was productive not only for asking question 95, but also for the prosecution's closing argument (which will be discussed below). These answers turned out to be counterproductive to the resistance of the satanic and religious anti-systemic stereotype, as he ended up getting closer to the stereotype of someone who is able to think as a murderer and find pleasant feelings from the crime. In this sense, the defendant's notions of the crime, especially to possess incriminatory knowledge and sympathize with the murderers turned out placing himself as someone with the same motivations that a satanic criminal would have. In consequence, the defendant gave an answer that connected him even more to the satanic anti-systemic stereotype.

4.2.2.4 Face threats in the courtroom in witness testimony

During this part of the trial, and as expected in this highly adversarial type of dialogue, there are frequent instances in which the prosecution and defense lawyers are aggressive towards each other and to the defendant. As previously discussed, in the opening statements there were not many instances of attack to the defendant's positive face contributing to either strengthen or resist stereotypes. However, further into the witness testimony, the satanic and anti-systemic stereotypes became the center of attention. On the basis of the answers of witnesses for the prosecution who testified prior to the defendant, the guiding questions in the defendant's testimony continued to build the satanic stereotype, and more instances of FTAs were identified, primarily from the prosecutor to defendant Echols and the defense.

The first significant instance of FTA was from the prosecutor to the defense and the defendant, this after an objection regarding the defendant's answers about his manic depressive condition.

Example 96.

- Davis: [...] A manic depressive is somebody who has big highs and big lows, right?
- Echols: Yeah.

  [...]

Davis:. Now, has that condition, ***did that lead to the incident when you were in school where you attacked the the boy and tried to claw his eyes out?***

Price: Objection, your Honor, to the relevancy of this incident. [...] we object to this, your Honor. It's completely irrelevant.

Davis: Your honor, your honor, he has indicated that he has different, he presents a demeanor here of someone that's ***calm and quiet and passive.*** [...] ***there has been instances where he has committed violent acts and is it connected to this medication.***

[...]

Davis: Your Honor, they put on testimony yesterday in direct about what a ***quiet, passive, peace-loving wiccan this defendant is.*** And I want to be able to go into evidence, and as far as his conduct is concerned, that that rebuts that, to ***show that that isn't the true character of the witness.***

This example is an evident threat to the defendant's positive face, due to the attacks on his identity, interests, and health. The purpose of the prosecution's intervention to the Judge was to allow them to demand the defendant's intake of medication prohibition. In this sense, by removing the defendant's medicine, the prosecution implied that the defendant was mentally unstable and that the defendant is not *the quiet, passive and peace-loving Wiccan* seen in example 96 (from the cross-examination). Thereupon, the prosecution suggested that he must be the exact opposite of this, he uses the medicine to hide his true satanic identity. This was explicit during the following interaction:

Example 97.

- Davis: Your honor, your honor, he has indicated that he has different, he presents a demeanor here of someone that's calm and quiet and passive. But he has indicated that when that medication -- he is on his medication now -- when that medication is out of whack, what I am asking is a question, when his medication is like that, there has been instances where he has committed violent acts and is it connected to this medication and is it connected to his swings as a result of what he says is an illness that he suffers from. Because that's important, his condition and his actions are important in this trial to determine what his conduct was on the night in question.

At this point in the testimony, the defendant had already declared his interest in religion, first in the Christian religion, specifically Catholicism, and after several years, the Wicca. The prosecutor used this information against him to reinforce the idea of satanism as the general

public does not make a distinction between Wicca and satanism. The defendant was portrayed, not only by the prosecutor but also by the press (as well as by his own defense, inadvertently and counterproductively) as a satanist that was able to murder three eight-year-olds for his beliefs. For that reason, the lawyer mocked the defendant' answers by stating that the defense showed the defendant as a peace-loving Wiccan, and that he then wanted to show who he really was by leaving the defendant without medication. This falls into the Brown & Levinson's category *violent emotions* (1987), as the prosecution stated possible motives for the courtroom to fear him. This is because the prosecution was threatening the defendant's health by preventing the defendant from taking his medication and the lack of medication implies a risk for the defendant of committing violent acts against himself, as the defendant stated in one of his answers during cross-examination, seen in the following example that was already mentioned in the previous section:

Example 98.

- Davis: Mr. Echols, when you have these mood swings and your medication is out of balance, do you have, do you get violent sometimes?

  Echols: Only toward myself.

Another FTA found during the witness testimony is produced by the defense towards the judge, and the prosecution towards the defendant:

Example 99.

- The Court: I am going to allow the State to inquire into mood swings.

  Price: But you said to stay away something that happened a year ago. ***Then that means they can't use this, Judge***. This happened a year prior to the murders.

  Davis: The question I have is if he gets on the witness stand and says, ***"I am no different when I am off my medication than when I am on it."***

  The Court: Then perhaps you might be able to impeach him with that. So, I mean, it just depends on how it develops whether I will allow that. Right now, I am not going to allow it.

In example 99, it can be seen the threat to the positive face of the judge by means of contradiction/disagreement. The defense lawyer (Val Price) implied that there was a

contradiction in the judge's actions. This attack falls into the category of Brown & Levinson's (1987) *contradiction and disagreement*. This category encompasses actions that attack the positive face as the speaker highlights what the hearer says, in this case, the judge is wrong, misguided or is being unreasonable. With this intervention, it can be seen how the judge was biased as he changed his mind about specific questioning after the prosecution raised the topic about the juvenile facility in which he was a year prior to the murders.

In the same example 99, in the prosecution's intervention (Brent Davis) tried to highlight the defendant's previous life to the murders as it helps to construct the religious anti-systemic stereotype as certain aspects, such as his change of religion, and his time in a juvenile correctional facility (alongside his fight in the facility) can set the precedent of a violent past. This could be linked with his drift from Christianity and his mental illnesses as he suffered from depression and manic episodes. Nevertheless, the prosecution's attacks towards the defendant Echols were successful to highlight some selected characteristic traits of the defendant that could potentially make him fit into the satanic and anti-systemic stereotypes that were already being presented in the media ever since the defendants were arrested.

To sum up, in this section of the analysis, FTAs were found to be related to the main behavioral features of the satanic stereotype, as the prosecution and defense emphasized on the defendant's use of medication for his manic episodes. Although the prosecution was not able to prove the maniac episodes to the satanic anti-systemic stereotype through the use of the factor of violence, the defense was not able to resist them properly. Thus, the defense focused on neutralizing the prosecution's attacks rather than disconnecting both ideas (satanic and violent) from the defendant. Coupled with the unsuccessful defense's strategy, as it can be seen in the last example, the judge was not a neutral entity during the trial, so it was harder for the defense to resist the stereotype.

4.2.2.5 Other relevant observations in witness testimony

Throughout witness examination, the defendant did not completely resist the stereotype, as it has some characteristics that are somehow related to aspects of his identity: he was not a

satanist, but he was a non-Christian who enjoyed allegedly satanic-related art, and presented himself as such. The defendant was, after all, a teenager who took pride in what he was, who most likely felt uncomfortable in the position of conforming to what the lawyers (and society as a whole) expected of him, and who had a rather naïve idea that justice would prevail regardless of stereotypical constructions and based solely on evidence.

In addition to this, it is important to remark that, in the end, it is both the defense and the prosecution that ultimately construct the satanic stereotype. As has been stated before, the defense's strategy to anticipate-to-neutralize the oncoming prosecution's stereotype was unsuccessful at counteracting the stereotypes against the defendant. Instead of distancing the defendant from the stereotype, the defense ended up casting unrequired light on what turned out to be the best argument of the prosecution: the satanic stereotype itself, strategically used to secure a conviction in the context of the lack of physical evidence.

4.2.3 Narrative construction in closing arguments

During this final part of the trial, the principle of recency helps to understand the importance of closing arguments. The recapitulation persuasively presented to the jury is essential for the now near deliberation, as this is the final opportunity for the lawyers to present their cases (Stygall, 2012). Thus, this section presents the final strategies (semantic prosodies, responses to the lawyer's promises and FTAs used during the closing arguments and their influence on the construction of the satanic and religious anti-systemic stereotypes. These final strategies are the accumulation of the ones used in the previous sections, as they are used to strengthen their arguments and appeal to the jury directly for the last time.

4.2.3.1 Semantic prosodies in the closing arguments

Closing arguments are not only about the narrative that lawyers from both sides are trying to construct, but about conveying the right impression. In this section, the semantic prosodies selected are mostly the ones already discussed in opening statements and witness testimony that were used to progressively construct the satanic anti-systemic stereotypes of the

defendant throughout the trial. For this purpose, the focus will be on the occurrence of these lexical items during both defense lawyer's closing argument, and prosecution lawyers Davis and Fogleman's closing arguments.

Throughout the trial several prosodies were used. Some of them were used during the opening statements to set the satanic and anti-systemic stereotypes, such as *ditch* and *weird*, and others were used to solidify and to further push the establishment of or resistance to the stereotype during witness testimony, such as *satanic*, *satanist*, *satanism*, *evil*, *wicca*, *religion*, *black* and *beliefs*. Thus, it is important and relevant to revisit these words and see how they progressed, vanished, or mutated throughout the trial, especially in this final stage of the trial. This is, after all, not only the last instance for the lawyers to prove their cases (Stygall, 2012), but also the final chance for the jury to hear the crime narrative.

The noun *ditch* used in the opening statement by the prosecution (see 4.2.1.1) was never used by the defense lawyer to refer to the construction of the crime; in contrast, it was used eight times by the prosecution during the opening statement (once as a verb). The defense lawyer did not contribute to the construction of the crime as a violent act with the evasion of this semantic prosody, as he did do (counterproductively, as argued) with other semantic prosodies in the opening statement.

The prosody *ditch* was used once as a verb by the prosecution in the same way it was used in the opening statement, and it had zero occurrences during witness testimony. The same connection of the word *ditch* as a noun to the construction of the crime and the reiteration of the careless dispatch of the body and methodical planning of the murder contribute to the construction of the satanic and anti-systemic stereotypes. Examples of the prosody *ditch* by the prosecution are the following:

Example 100.

- Davis: Number two, this area of the ***ditch***, if you'll recall from the testimony [...]
- Davis: […] where the ***ditch*** has washed it out.
- Davis: And you can stand in the ***ditch*** and the bank, the top of the bank is like right here.

- Davis: So if you're down in the bottom of that ***ditch*** on those plateaus and flat places when the murders occurred [...]

- Davis: So, I mean, they can leave the stuff in the drainage ***ditch*** on the way home.

- Davis: [...] it would have probably scared people off at that point because they're getting close enough to the area where *the bodies were* ***ditched***.

- Fogleman: [...] they did their arms length thing, where they walked from the ***ditch*** to the interstate.

- Fogleman: [...] and if they abducted them over here on the south side of the ***ditch*** [...]

Through this prosody, which started to build up already in the opening statement, the prosecutor lawyer shifted the negative semantic load of *ditch* towards the defendant.

The noun *ditch* is not only mentioned more times than it did during the opening statement, but also it is inflected, so it becomes a verb. The closing statement mentions the noun *ditch* seven times, while in the opening statement it was mentioned only four. The change from noun to verb shifted the negative connotation of the place and later the action, towards the identity of the defendant, who did not only kill innocent children, but also *ditched* them, metaphorically like trash, as it was said previously during the opening statement and now repeated in the closing argument due to the apparent successful use of this strategy.

The adjective *weird* was used to describe the defendant and the defendant's possessions, as it will be seen further in this section. As stated earlier, during the opening statement, the word was used for the first and only time by the defense lawyer as an ultimately unsuccessful attempt to counteract the prosecution's intended satanic and religious anti-systemic stereotypes. In the witness testimony was used only twice by the defendant to describe what people thought about him. Now, in the closing arguments, the adjective *weird* was mentioned eight times, seven by the defense and once by the prosecution.

In this section, the same neutralization strategy that was used in the previous sections, is used by the defense with *weird* as a mitigating word as it is considerably less damaging than the adjective *satanic* as it is almost exclusively used by the defense lawyer, illustrated as follows:

Example 101.

- Price: A second, that Damien Echols was kinda ***weird***.
- Price: We have this ***weird*** kind of picture right here [...] It looks like a ***weird*** picture [...] it's kind of a ***weird*** strange looking picture [...] It's still all right in America to have ***weird*** things in your room [...] [Refered to a picture found in the defendant's bedroom]
- Price: The girls also said "Well, Damien was kind of ***weird***. We, you know, heard some rumors about Damien."
- Price: "Because of all that, convict Damien Echols because he's a ***weird*** *teenager*."

On the contrary, the only use of the adjective *weird* by the prosecution during the closing argument was to try to generalize the idea that there are people that are strange and combined with a specific set of beliefs, makes it plausible that they kill children, as seen in example 102. The prosecution settled this train of thought in order for the jury to ponder if the motives behind the crime are satanic. This is supported by the fact that there are several satanic-related collocations surrounding this only use of *weird* —which was until now only used by the defense to neutralize the stereotype—. The prosecution, then, reinforced the neutral semantic prosody *weird* by the use of satanic-related collocations linked to the adjective *weird*, such as *strange, particular set of beliefs* and *human sacrifice*.

Example 102.

- Davis: There's something *strange* going on that causes people to do this. I mean, you've got some ***weird*** people. And when you got a *set of beliefs*--when you got people out there that are following a *particular set of beliefs* that include *human sacrifice* and it's evidenced in the books.

In sum, it is possible to observe the resistance/reinforcement of the satanic and religious anti-systemic stereotype through the use of the adjective *weird* during closing arguments. In terms of mitigation or resistance, the defense used this semantic prosody because it is remarkably less damaging than *satanic*. However, in terms of reinforcement, the prosecution used the word *weird* for the very first time to use it in co-text with words/phrases linked to the

construction of the satanic and religious anti-systemic stereotype. Thus, the use of the adjective *weird* was comparatively less damaging and evolved into the undeniably negative *satanic***.** While *weird* was mentioned fifteen times, satanic was mentioned thirty times.

In relation to the adjective *satanic*, it was already stated that no occurrences were identified in opening statements, as before the presentation of testimony the prosecution was not sure yet as to whether they would pursue the construction of the satanic stereotype. However, even before the defendant took the stand, other witnesses for the prosecution had already secured that strategic course of action, and so by the time the defendant did actually sit to give testimony, *satanic* had already become a frequent —and arguably, the most accentuated semantic prosody— in the trial. During the witness defendant's testimony, *satanic* was used eleven times, nine by the prosecution and twice by the defense lawyer It is during the closing arguments, however, that *satanic* shows the most occurrences, being used thirteen times by the defense lawyer and sixteen times by the prosecutor. This incremental progression, clearly resulting from the equally incremental perceived success of the calculated construction of the defendant as a satanist, is then apparent. Examples of the uses of satanic during the defense's closing arguments are as follows:

Example 103.

- Price: And that's where the State introduced the testimony of Dr. Dale Griffis [...] this crime had trappings of *occultism*. And I asked him [...] "Ah, that's ***occult*** related things [...] when they're doing their ***satanic*** things use stuff like this"
-
- Price: Okay, well I asked him "Well, then, if it was no moon does that mean it's not ***satanic***?"[13]
-
- Price: Ah, so the fact there's a slicked up area, that means it's ***satanic***. [14]
- Price: Yes, on May the 1st it's a ***satanic*** *date* and so is April the 30th.[15]

[13] Referred to the fact that during the police investigation, the fact that that day had been a full-moon was a key element to drift the investigation towards a satanic motivation (Linder, n.d).

[14] Reference to the prosecution's opening statement, seen in 4.2.1.1.

[15] Referred to the fact that the date was related to satanic killing from the start of the investigations, as they named the case with the date and addeed 666 at the end of the finle number (95-05-666) (Leveritt, 2002 in Davis & Davis, 2017).

Example 104.

- Price: [...] it's a ***satanic*** -- it could be perhaps a ***satanic*** *killing.*
- Price: [...] according to Dr. Griffis it could be ***satanic***.
- Price: [...] it could be a ***satanic*** *killing* according to Dr. Griffis?
- Price: [...] the State has tried to allege this is a ***satanic*** *killing* or had the trappings of ***occultism***.

These examples 103, illustrate how the defense mocked the prosecution's satanic connections to the case from the beginning, even prior to the trial, and that now conform the factual evidence to construct the crime narrative and the defendant's identity. In example 104, it can be seen the word *satanic* is collocated by the word *killing* which is a direct mention to the satanic stereotype and the crime. Although the defense used reported speech to argue ideas presented from the prosecution and prosecution's witnesses, it was counterproductive for the resistance of the satanic and religious anti-systemic stereotypes. Therefore, the defense instead of resisting the stereotype, shed an unwanted light on the satanic stereotype.

However well-intended, the defense's frequent occurrences of *satanic* did not resonate in the jury as pursued; even from the beginning of the trial (primacy) but now even more so (recency), the jury had already accepted the satanic stereotype presented to them by the prosecution, and so the defense's efforts to counteract it must have been more carefully and compellingly presented. The deliberate neutralizing effort of the defense was ultimately counterproductive for the resistance of the stereotype, because it ended up further highlighting —as opposed to successfully neutralizing— the satanic and anti-systemic stereotypes.

Regarding the use of the adjective satanic, it had zero occurrences in the opening statements, but in witness testimony —in evolution from the adjective *weird*, from the defense's opening statement— was the prosody with the highest number of occurrences in that section. It was only natural that this effective strategy progressed to be turned into a more stereotype-related prosody as it is *satanic*. Thus, the use of this prosody was proven to be the most effective one, as it had the higher number of occurrences in both witness and closing

sections. In fact, the prosecution used the adjective *satanic* sixteen times in contrast to the nine used during the witness testimony. Some of the instances of the prosody *satanic* in closing argument are seen as follows:

Example 105.

- Davis: He is nearly emotionless, and what he has done in terms of the ***satanic*** stuff is a whole lot more than just dabbling or looking into it for purposes of an intellectual exercise.

Example 106.

- Fogleman: Somebody that would take the beliefs, that--the ***satanic*** beliefs, even if he does it just part time, is a perfect motivation.

Example 107.

- Fogleman: [...] when you take all of that together, the evidence was that this murder had the trappings of an occult murder. A ***satanic*** murder.

Example 108.

- Fogleman: He said, there's nothing *evil* about that, but these upside down crosses they have nothing to do with *Wicca* --they're ***satanic***.

In these excerpts (105-108), it can be seen how the prosecution characterized the defendant and his interest and beliefs. In example 105, it can be seen how the defendant was described as emotionless, completely erasing his statement of his self consciousness about the way he looked seen in the witness testimony section and it also erased the identity of the defendant by minimizing the defendant's hobbies and interests as it all should be comprised in the satanic stereotype, not intellectual exercise.

In example 108, the adjective *satanic* was used as a correction from the prosecution of the noun *Wicca*, to establish that when the defendant expressed his beliefs as Wiccan, he was in fact, satanic. Thereupon, the prosecutor lawyer shifts from Wiccan to Satanic in order to reinforce the satanic and religious anti-systemic stereotype interchangeably.

The semantic prosody *beliefs*, rather void in the absence of pre-modifying adjectives, was not used either by the defense or the prosecution during opening statements. However, during witness testimony, it was used a total of eight times, mostly by the defense lawyer, as it was relevant for the intended deactivation of the satanic stereotype in construction, which

was achieved by prefacing this noun with what can contextually be understood as neutralizing adjectives such as Wiccan (even if Wicca is not contrastively different to satanist in the eyes of the jury), religious, and without any satanic related semantic prosody. Again showing increasing productivity, by the closing arguments, *beliefs* showed sixteen occurrences: four by the defense and twelve by the prosecution.

The defense lawyer used *beliefs* only one time, pre-modified by the adjective *Wiccan*, as seen in example 109. In contrast, in the rest of the instances it was somehow softened by modifying it with the more generalizing adjective *religious* (Example 110).

Example 109.

- Price: Damien Echols tunnel vision. The State has made a big deal about my client's ***beliefs***.

Example 110.

- Price: The whole part of a teenager, when you're growing up, in the teen years, is questioning things. Questioning your *religious* ***beliefs***.

Example 111.

- Price: Ridge asked him about *religious* ***beliefs***, Damien told him.

Example 112.

- Price: Damien wasn't a suspect until he started talking to, about his *Wiccan* ***beliefs*** with Inspector, with Ridge
-

Regarding the use of this noun during the prosecution's closing arguments, there were only two instances where collocated with the generalizing adjective *religious*, while the rest of the occurrences collocated with other semantically accentuated words that point out associations with the satanic stereotype (*particular, strange, occult, devil and evil*). For instance, in example 114, the word *beliefs* is connected (though not in immediate proximity, thus not forming noun phrases) to the adjectives *bizarre*, *unfamiliar*, and *occult*, and to the noun *murder*. The latter was not only linked to the satanic and anti-systemic stereotypes, but also directly to the motive of the murders as a satanic ritual.

Example 113.

- Davis: And when you got a set of ***beliefs***--when you got people out there that are following a particular set of ***beliefs*** that include human sacrifice and it's evidenced in the books.

Example 114.

- Davis: And I put to you, as *bizarre* as it may seem to you and as *unfamiliar* as it may seem, this occult set of ***beliefs*** and the ***beliefs*** that Damien had and that his best friend, Jason, was exposed to all the time, that those were the set of ***beliefs*** that were the motive or the basis for causing this *bizarre* murder.

Example 115.

- Davis: If somebody, when their dress changes, their ideas change, their *religious* ***beliefs*** change to that extent and it's that type of *religious* ***beliefs***, then it's not a foreign idea to think that that has something to do with their motivations [...]

The noun *religion* had zero occurrences in the opening statement, which contrasts with the fifteen instances identified in witness testimony that was often used with satanic-related collocations (two out of three by the prosecution, none by the defense). The prosecution and defense used the noun only once This, in turn, also contrasts with the decreasing productivity of the word in the closing argument, with only two instances, once by each party. This dramatic decline in the number of occurrences of *religion* may be explained as, now at the end of the trial, the generality associated to this noun is being gradually replaced by the more specific uses of *satanic* (and related collocations) that have already proved successful to the lawyers' overall narrative construction.

The following example 116 illustrates both the defense's and the prosecution's only instances, respectively:

Example 116.

- Price: But in this case, we also have the First Amendment, freedom of ***religion.***

Example 117.

- Fogleman: There have been hundreds of people *killed* in the name of ***religion.***

The defense lawyer used this noun in a neutral manner, as a neutralization strategy that aimed to avoid the connection of religion to any satanic connotation. On the contrary, as seen in example 116, the prosecutor did connect the adjective *religion* to the crime narrative, in close clausal proximity to *killed*, to imply a religious motivation to the crime, reinforcing the satanic stereotype.

The adjective *Wiccan* had zero occurrences in opening statements, while during the witness testimony it was used fourteen times to refer mainly to the defendant's beliefs, this with a satanic connotation, especially during cross-examination. Now in the closing arguments, the defense used the word once, while the prosecution used it five times. As above, it is again safe to assume that *Wiccan* receded to yield the spotlight to an increasingly occurring *satanic*, which was indisputably more productive for the religious anti-systemic stereotype.

During the defense's closing argument, the word *Wiccan* was used as a pre-modifying collocation of *beliefs* as shown in 118. The resulting noun phrase *Wiccan beliefs* was used in a neutral manner as a strategy of mitigating this construction of the satanic stereotype:

Example 118.

- Price: Ah, but Damien -- according to their testimony -- Damien wasn't a suspect until he started talking to, about his ***Wiccan*** *beliefs* with Inspector, with Ridge.

In contrast, in the prosecution's closing argument, the word *Wiccan* was used five times —three as an adjective and twice as an noun— to reinforce the satanic anti-systemic stereotype by linking the religion to satanic connotations:

Example 119.

- Fogleman: And by the way this doesn't have anything to do with ***Wicca***, doesn't have anything to do with it.

Example 120.

- Fogleman: He said, this symbol right here there's nothing *evil* about that. That's a ***Wiccan*** *pentagram*.

Example 121.

- Fogleman: He said, there's nothing *evil* about that, but these upside down crosses they have nothing to do with ***Wicca*** --they're *satanic*.

Example 122.

- Fogleman: [..] what Dr. Griffis said about him being confused because you got ***Wiccan***, which is the good, and upside down crosses which is *satanic*.

Example 123.

- Fogleman: If he wants to be good, he goes to the ***Wiccan*** side.

Regarding the progression of the stereotype, it is possible to observe how there was no mention of Wicca in the opening statements, whereas in witness testimony there were fourteenth occurrences, and in closing arguments only five occurrences. Although in closing arguments the number of occurrences was significantly lower, four of the total had satanic connotations within the co-text of the statements. The use of the word *Wicca* and *Wiccan* is linked to the construction of the satanic stereotype, and consequently, it contributes to the progression of its construction. However, as commented, it gradually takes a step back in favor of more explicit *satanic* associations.

The adjective *evil* showed no occurrences in opening statements; during the witness testimony, eleven occurrences were identified. Now, in closing arguments, the adjective *evil* had six occurrences in the prosecution, while the defense had only one. This is illustrated as follows:

Example 124.

- Price: I asked him about the last quote in his book, and Ken Lanning, behavioral scientist from the FBI: "*Bizarre* crime and ***evil*** can occur without organized *satanic* activity. The law enforcement perspective requires we distinguish between what we know and what we don't know."

Example 124 shows the only occurrence of this semantic prosody in the defense's closing argument. Although the use of this adjective occurs alongside *bizarre* and *satanic*, which is the strategy often used by the prosecution to reinforce the satanic stereotype construction, the defense sought to neutralize the satanic stereotype emphasizing the fact that there was no evidence to support this construction.

In example 125, it can be seen the reinforcement of the satanic religious anti-systemic stereotype by the prosecution. The use of the semantic prosody *evil* in this example is deeply linked to the motivations for the alleged satanic crime:

Example 125.

- Fogleman: There have been hundreds of people killed in the name of *religion*. It is a *motivating force*. It gives people who want to do ***evil***, want to commit murders, a reason to do what they're doing. For themselves, it gives them a reason--a justification for what they do."

Example 126.

- Fogleman: He said, this symbol right here there's nothing ***evil*** about that. That's a *Wiccan* pentagram. Nothing ***evil*** about it at all. But he said, I'm confused. He said, there's nothing ***evil*** about that, but these upside down crosses they have nothing to do with *Wicca*--they're *satanic*. And that confuses me why they would both be in the same place.

Example 127.

- Fogleman: Remember Mr. Price asking, probably Mr. Griffis--about is there anything that would motivate somebody to ***kill***, about a spell about "improving the memory" [...] "cure for worms"? Are those ***evil***? Well, no. "A cure for cramps," ***evil***? No. He left out one, for some reason. "*Sacrifice* addressed to Hecate." I don't know why he left that out.

In example 125, the prosecution stated that satanism as a religion is a justification for evil actions, such as murder. Therefore, it is linked to the idea of *satanic killing* that is repeatedly

used during both witness testimony and closing arguments of the prosecution. In example 127, the prosecution was also accentuating the fact that committing murder is an *evil* act, a straightforward fact, in order to connect this idea to the evilness behind *sacrifice* as an evil and satanic act.

Regarding the progression of this prosody, the adjective *evil* was more frequently used during witness testimony; however, the use of it is reduced to seven times in closing arguments, mainly used by the prosecution.

Finally, the predominant and most effective prosody to categorize and construct the satanic and religious anti-systemic stereotype of the defendant was *satanic*. It is important to remember that the use of this prosody to refer to the defendant in witness testimony and in closing arguments is a transformation of *weird* used during defense's opening statement. As well as the adjective *unnatural* that was used during the prosecution's opening statement to refer to the crime narrative and shifted to *satanic* used in the same fashion.. On the contrary, the defense instead of using the adjective *Wicca* to neutralize this semantic prosody, chose to mitigate the construction of the stereotype by using *satanic*, which was counterproductive for the resistance of the stereotype.

4.2.3.2 Face threats in the courtroom in closing arguments

During the closing argument, several instances of attacks towards the face of the lawyers and the defendant were identified. The aggression seen in these arguments emphasizes the stereotype construction that has been developing throughout the trial.

Regarding the attacks toward the positive face of the defendant, as discussed in types of answers during witness testimony, the imperative sentence "use your *common sense*" was used several times by the prosecutor, reporting the speech the defendant had used earlier in the trial. Now in closing arguments, this FTA was repeated on seven occasions by the prosecutors to echo and ridicule the defendant's responses during the witness testimony. This expression of ridicule attacks the positive face of the defendant without redress as it is boldly stated by the prosecution that the defendant's ideas of common sense are linked to what a satanist would believe, thus reinforcing the stereotype as, seen in the following example:

Example 128.

- Fogleman: The defense also wants to suggest, somehow this was a serial killer. Well, number one, I submit to you the proof shows that one person not only did not commit this crime--but could not. One person--to believe that one person did this, you'd have to believe that one person controlled three active eight-year-olds. Number one. Number two, you've got evidence that there were multiple weapons used. ***It doesn't take a brain surgeon*** to know that the weapons used on the left side of the head and the weapon on the right side of Michael Moore's head were not the same. ***Use your common knowledge and common sense.*** Uh--you can look and see that by looking at it. You had those two, you've got a knife--you got at least--at least three different weapons.

The prosecutor reintroduced this *common sense* from the defendant witness's testimony, now to suggest another interpretation of what common sense is, implying that even a non-specialist in the matter could see and identify the evidence for what it was.

The following instance of FTAs by the prosecution illustrates the overall aggression towards the defendant (and, also, to the defense):

Example 129.

- Fogleman: Could you have any reason to understand why someone would do that to three eight-year-old boys? Well, you've got three eight-year-old boys done that way, and ***then you got the defendants looking like choirboys during the trial--during jury selection.*** In fact, think back to jury selection when the defense trying to say, well, as they sit here right now what do you think about them? And either you or your fellow juror--you heard a fellow juror say, I think they look like typical kids. Well, think how hard it would be for you to conceive of typical teens doing what was done to these three eight-year-old boys.

Example 130.

- Fogleman: Remember when I read this ***silly poem*** in here? Remember that? I bet all of y'all were thinking, he's lost his mind standing up here reading us a poem written by Damien.

The previous instances of FTA occurred in the prosecutor's closing argument (129 and 130) directly attacking his positive face without redressive action, emphasizing the already built negative construction of the defendant. Example 129 refers to the defendant's appearance, specifically his change of appearance while in court by stating that he looked like a choirboy. The prosecutor established a contrast between the Wiccan/satanic stereotyped individual that committed the horrendous murders and the choirboy-looking defendant present throughout the trial. This FTA resembles the previously mentioned prosecution's occurrence of a *peace-loving Wiccan.*

In example 130, the prosecutor ridiculed defendant Echols as he, the one that allegedly killed three eight-year-olds, also wrote silly poems Additionally, the prosecutor attacked the defendant's positive face not only by criticizing this poetry in the courtroom, but also by implying that to read a poem written by the defendant is nonsensical.

The defense also attacked the prosecution's face as seen in the following example:

Example 131.

- Price: [...] ***My client is a teenager***, and we certainly didn't hide that fact from you. And the fact that my client did some writings, take these back, go back and read them, go read all these. ***But this, in and of itself, is no evidence of murder and even if you add in all the other things, quote "trappings of occultism," according to Dr. Griffis, that has nothing to do with this case whatsoever. And besides, this even has quotes from Shakespeare. In addition, that was two years before.***

Example 132.

- Price: Yeah, it's kind of a weird strange looking picture, ***but so what***? ***It's still all right in America to have weird things in your room, and it doesn't mean you're guilty of murder and it doesn't give any kind of motivation.*** We didn't have to explain away any of this stuff. Damien got on the stand and said "Yeah, it's my picture. Yeah, that's my writing." ***The whole part of a teenager, when you're growing up, in the teen years, is questioning things. Questioning*** your religious beliefs. ***Questioning*** your parental values. But just because you do that is not any kind of evidence of murder.

The examples 131 and 132 try to justify the objects in the defendant's room and his writings by stating that they have no relation to the crime. This attempt to neutralize the stereotype also mocks the prosecution due to the evidence they chose to use, such as the defendant's journal that contained Shakespeare quotes, which were interpreted by the prosecution as satanic writings.

The resistance to the stereotype by the defense in this section seeks to represent the defendant as a normal young man, or at least, as someone who is not so different from any other American with the right to have their interests, and these interests are not evidence for convicting someone of murder. Also, the defense emphasizes that the very essence of being a teenager is to question *beliefs* and *values*, thus highlighting that the defendant, however

weird and *strange looking* he may be, cannot be convicted for his age appropriate behavior, especially as there is no solid evidence against him.

4.2.3.3 Fulfillment of lawyers' promises in closing arguments

In closing arguments, it is possible to evaluate whether the promises made during the opening statement were or were not fulfilled during the course of the trial. In this section, it can be seen how the defense and prosecution lawyers remark on the promises that had been fulfilled by them or the failure to fulfill them by their counterpart. The promises are presented first discredited promises and the remark of fulfill promises, in each case, it is presented the defense's examples, followed by the prosecution's ones.

As foregrounded above, promises' initial making (during opening statements) and final assessment (now, during closing arguments) did not prove to contribute to the construction/resistance of the stereotype as originally anticipated when establishing the specific objectives of this study. Nevertheless, it does add, however tangentially, to the overall strategic work deployed by lawyers. It is, then, only in combination with both semantic prosodies and face attacks that this strategy helps to develop the stereotype. Two types of promise evaluations were identified during this part of the trial: discrediting the other's promise, and enhancing the fulfillment of one's own promise.

The main findings are related to the unfulfilled promises by the opposing side, that is to say, they were presented to the jury as infelicitous acts (Austin, 1962). Alongside this—in contrast with the previous corpus examined—, both prosecution and defense lawyers remarked on the infelicitous act of the other to demonstrate their own reliability and the lack of it from their counterpart. This constitutes an attack to the other's positive face, as seen in the following example from the defense:

Example 133.

- Price: The State cannot come in here and accuse Echols of changing the story to fit the facts if they don't even know what the facts are. ***Because it's not our job to prove what happened May the 5th, it's the State's job and they haven't done it.***

-

As stated by the law and emphasized by the defense lawyer, the task of the prosecution is to prove the defendant's guilt beyond any reasonable doubt. The defense focused on how the police investigation was carried out, claiming that the police wanted to blame the defendant before any real evidence had been collected, which made them avoid investigating certain leads that could have helped solve the case, such as the blood-covered person in a restaurant near Robin Hood Hills which was the area in which the crime was committed. With this, the defense points up the fulfillment of their opening statement's promise: "*I think you will see that [police ineptitude] from the testimony that comes out, it will be very evident to you. Number one, police ineptitude*", while also discredits the unsuccessful prosecution Fogleman's promises, since "*[the lawyer's purpose during trial is][...] assist you, the jury, and not only having some idea of what the evidence is to be but also what issues or questions or what elements uh you'll be asked to decide whether the state's proven or not*". Since the defense alleges that the evidence provided was biased from the beginning, it conditioned the jury into a specific idea about the crime. Thus, for the defense, the prosecution did not fulfill their promise of demonstrating compelling evidence of the defendant's involvement in the murderers.

Similarly, the idea of the defense' incomplete case was a topic during the prosecution's closing statement. As can be seen in both example 134 and example 135 below, the prosecution mocked the puzzle metaphor presented by one of the defense lawyers and turned the metaphor in his case's favor by stating that despite having just puzzles pieces, they still pointed towards the defendant Echols. These statements also aim at proving that the police did not have the "Damien tunnel vision" that the defense claimed.

Example 134.

- Fogleman: A lot of the defense has been what I call smoke. Mr. Ford[16] in his opening statement alluded to putting together, this is a trial, like ***putting together the pieces of a puzzle***. I'm not very good putting together those jigsaw puzzles. But when you got a puzzle, you got the pieces laying out on the floor. And you're putting it together and ***you're following***

[16] As mentioned earlier, the defense lawyer of Jason Baldwin, Paul Ford's statements were not considered throughout the analysis, but he had instances that affected Echols' defense. During his opening statement, he introduced the idea of police ineptitude by a puzzle analogy that is ridiculed during the prosecution's closing arguments.

that completed picture, and then along somebody comes with three or four other puzzles and dumps all their pieces out there too.

-

Example 135.

- Fogleman: ***The defense says that the police had Damien tunnel vision.*** Well, the testimony's been that Damien, at the beginning, was one of many suspects. Not the suspect, but one of many suspects. Just so happened that every way, every lead, every turn kept leading back to Damien.

-

As stated above, the defense's promises were mainly related to foregrounding police ineptitude. This suggested both that the defendant was being stereotyped even before the trial began (thus resisting the same stereotype that has now been presented at trial), and also that this alone raises enough reasonable doubt about the defendant's involvement in the crime.

Now, even though most of the defense's opening statement promises were fulfilled, one of the main ones (though one that did not directly contribute to the resistance of the stereotype) was not: "[...] *and these witnesses will be able to tell you, Damien Echols was not there. We'll have family and friends saying he was not there* [...]". However, the statements of the witnesses proved that there was a period of time when nobody could testify where the defendant was. More importantly, this time frame was precisely when the police estimated the crime was committed. Thereupon, this promise is not considered fulfilled, which was the reason why the defense strategically avoided making any reference to said promise during their closing statement.

In examples 134 and 135, the prosecution referred to their own fulfillment of promises and the unsuccessful fulfillment of the defense promises by mentioning the puzzle metaphor. This helped solidify the prosecution's promises that were presented in the opening statement that were fulfilled:

> Fogleman: [...] the proof is going to show, ladies and gentleman, through scientific evidence, the statements of this two defendants, Damien Echols and Charles Jason Baldwin, and other evidence, that they caused the deaths of Michel Moore, Stevie Branch and Chris Byers.

With this, the prosecution claimed the crime scene was cleaned and, throughout the trial, this idea was proven by experts and witnesses as there were no traces of DNA or fingerprints in the bodies or the crime scene. The use of the puzzle metaphor demonstrated the defendant'

participation in the crime according to the prosecution. The prosecution enhanced their fulfillment of the promise as if they had found all of the pieces of a puzzle which the defense alleged to be incomplete and being tailor made to fit the defendant.

The main findings regarding those promises that were considered fulfilled during this part of the trial, which ultimately affected the recency (Stygall, 2012), and consequently, the construction of the satanic religious anti-systemic stereotype. Along the same line, both prosecution and defense lawyers remarked on the fact that they accomplished their promises. This can be seen in the defense's closing argument:

Example 136.

- Price: ***In addition, we're not required to prove any defense whatsoever. But when we put, we not only put Echols up on the stand and he was there for the after -- one afternoon and also part of the next morning***. And Mr. Davis had a chance to ask any question that he wanted to, and you had the chance to observe the demeanor of Echols on that witness stand, and consider that in your deliberations. Consider his answers.
-

Example 137.

- Price: We don't have to disprove anything about this knife. The State has the burden of proof, and even with this knife, ***they haven't proved that this knife was the murder weapon.***
-

In these examples, the defense focused once again on the biased statements about the cases that developed before the trial as stated *"you had the chance to observe the demeanor of Echols on that witness stand, and consider that in your deliberations"*. With this statement, the defense proved to be successful in their promise regarding a biased investigation (confirmed by the witnesses) and they felt confident about their case and how they had presented it. The defense ordered the jury to consider the defendant's answers by themselves, as the comments made by the prosecution tried to manipulate and guide his answers into fitting their biased case but, according to the defense, this was an unsuccessful attempt to prove the defendant's guilt, instead it proved that they only wanted to close the case and blame the defendant for the murders.

In regard to the prosecution's promises, it is recurrent for them to remark on the promises they had fulfilled while mocking the defense, as shown in the following example:

Example 138.

> Fogleman: [...] the fingerprints, no fingerprints, ***why would we do that? Why do we waste your time putting on that evidence? Well if we don't, the defense gets up and say, well they didn't even test for fingerprints.*** Oh if they had only done DNA on that skin fragment we would know for sure. We would know. Well the reason for that--that evidence, is to show you the efforts made to procure evidence.

In excerpt 138, the prosecution referred to the lack of physical evidence and the fact that it could not be fully linked to the defendants. Coupled with this, the prosecution claimed that although the police made some mistakes, none of them interfered with the development of the investigation or the factuality of the defendant's involvement in the crime. Despite the existence of some mistakes regarding how the police handled evidence, the prosecution stated they were still valid enough to support the prosecution's argument. Because of this, they mocked the defense by calling those mistakes and heightened them up to the point of seeming ridiculous and desperate to demonstrate reasonable doubt, as in "All that is, that hours of stuff going through the sacks is to try to confuse the issues".

In terms of the progression of the satanic religious anti-systemic stereotype, in the prosecution's closing arguments there were fulfilled promises that were used to highlight the reliability of their case, to make it seem much more truthful than it actually was. In this sense, it reinforces the stereotype of the defendant. Regarding the defense's attempts to resist this stereotype, the defense lawyer focused on showing the jury that the stereotyping efforts started even well before the trial did, already during the initial days of the police investigation of the crime. The defense did so in order not only to invalidate the evidence (and lack thereof, especially), but also to show the jury that the whole case is based on a stereotype that they also must resist.

The promises made by the defense were not thoroughly fulfilled as they did not show compelling evidence of the defendant's innocence, and even if they did not have the burden to produce it, they still failed to prove reasonable doubt over the case. As both parties were focused on the stereotype, the prosecution's case was more successful, since they had made promises during the opening statement that could be easily linked to the satanic religious

stereotype that proved to work especially during witness testimony. Despite the prosecution's failure to fulfill certain promises, they were still successful in presenting and proving the idea of a premeditated crime, which ultimately helped them demonstrate that the stereotypes developed during the trial were not only valid but that they were incriminatory evidence of the defendant committing the crime.

Opening statement's promise accountability during closing arguments may have tangentially helped in the construction/resistance of the satanic stereotype of the defendant. Nonetheless, it does so only in the broader context of semantic prosodies and face attacks and, consequently, did not prove as useful to examine the progression of the defendant's stereotype during the trial as other concepts did during the analysis. Even so, it was considered an interesting angle to explore, one that did not result especially fruitful but that still offers some promising projections, as suggested below in the text.

4.2.3.4 Other relevant observations in closing arguments

Rhetorical questions during this part of the trial were meant to reinforce the satanic and religious anti-systemic stereotype for the last time by the prosecution, and for the defense, it was the last time to neutralize the statements of the prosecution.

Example 139.

- Price: Now, ***was Inspector Ridge in fact checking all possible suspects?*** Or ***was he only doing this just because some lawyer happened to ask him to do that? Or was there other evidence indicating that Mr. Byers might've been a suspect?***
-

Example 140.

- Price: [...] the motive that the State tried to allude to, that this was a, let's see, the "trappings of occultism" killing. ***Is there anything else, anything, here at this crime scene indicating an occult killing? Do you see any pentagrams out here? Do you see any nine foot circles?***
-

Example 141.

- Price: ***Now was this something that the defense just made up?*** Maybe that we're pursuing these, these other possibilities trying to throw some doubt and just, do a little defense-type stuff. ***Well, were we the only people that were interested in this?*** What happened back on May 26th, Gitchell wrote a letter to the Crime Lab and said, "Is there any evidence of a black male involvement?" That was something that the West Memphis Police Department was also trying to pursue.

In excerpt 139, it can be seen that through the use of rhetorical questions referring to the idea of mediocre police work (sloppy police work as the defense mentioned in the opening statement) that the investigation was biased. The police had other suspects to investigate as they had evidence to do so, but the focus was on the defendant. The notion of a non meticulous police work was already mentioned during the opening statement, so the recapitulation of it through the rhetorical question. The police investigation was guided towards the defendant, which contributed to the idea that the whole case is solely based on the satanic stereotype.

Similarly, in example 140 reinforces the idea of the lack of thoroughness in police procedure, while taking into consideration the satanic and religious anti-systemic stereotype directly. All of the strategies used by the defense during this part of the trial are the last time that they are going to be employed, therefore the repetition of the main ideas should be expected. Example 140 refers directly to the lack of evidence to prove that the murders were of satanic nature. Finally, example 141 shows one of the features of closing arguments: to present gaps in the evidence produced during the witness testimony (Heffer, 2010).

Rhetorical questions were also seen in the prosecution's closing arguments as follows:

Example 142.

- Fogleman: ***Now what does the State have to prove?*** The State has to prove, number one, that with the premeditating and deliberating purpose of causing the deaths of any person--that's number one. ***What was the state of mind? What was the state of mind?*** Premeditation and deliberation.
-

Example 143.

- Fogleman: Well, once they take one of those boys and they beat him and give him injuries that would be fatal, and then they put him in water tied where he can't do anything but go to the bottom, and he aspirates water, and ***what do you think he's gonna do, no matter what the head injuries are? Use your common knowledge. What do you think he's gonna do? You think he's just going to sink to the bottom? Don't you think he'd be struggling, and thrashing to get some air?***

As seen in example 142, the repetition of the rhetorical question "*what was the state of mind*" is used as an emphatic strategy in example 143, the use of rhetorical questions emphasizes the emotion that the prosecution is trying to convey by asking what they think the victims

felt while being murder. Coupled with this, the prosecutor lawyer also made a connection to the defendant's words "*use your common knowledge*" to place for the last time the contraposition between the jury and the satanic religious anti-systemic stereotype of the defendant. In this manner, the jury might feel unsettled by the crime narrative and engage in the prosecution's stereotype construction.

During this case and part of the trial, rhetorical questions are used, on the one hand, as a display of persuasive discourse to construct the crime narrative, and on the other hand, to emphasize what was not done by the opposite bench lawyer. All of these instances of rhetorical questions help the reinforcement of the stereotype as they exclusively focus on the general points of the case which are directly involved with the satanic stereotype.

4.3 Progression of the construction of stereotype across corpora

This section compares and contrasts the most relevant findings in the two corpora analyzed: The Seven of Chicago and The West Memphis Three. As stated earlier, the parts of the trials examined in each case were the opening statements, the direct examination and cross-examination of one of the defendants, and the closing arguments. These three stages are part of the adversarial phase of the trial (Heffer, 2005) that were analyzed to characterize the progression of the prosecution's stereotype of anti-systemic imposed on both defendants. However, there were specific stereotypes of inciter of violence and political anti-systemic in The Seven of Chicago, especially seen in defendant Abbie Hoffman, and the stereotype of religious anti-systemic in West Memphis Three, exemplified in Damien Echols.

Also, each trial had more than one defendant; nonetheless, the present study focused, on the one hand, on defendant Abbie Hoffman in The Seven of Chicago due to his political career and behavior during the trial, where he stood out as the group's spokesperson, and also because of his attitude during the trial, as he constantly disrupted the Judge's warrants. On the other hand, in The West Memphis Three, Demian Echols was chosen because of how he fulfilled, through his appearance, likes, and behaviors, the preconceptions associated with the stereotypes he was charged with: satanic and anti-systemic for which he dragged the rest of the defendants due to their association to him. The following section will compare and contrast both corpora to highlight the similarities and differences in the strategies used to

develop an image of the defendants favorable for the prosecution and defense. As stated earlier, the parts of the trials analyzed in each case were the opening arguments, the direct examination, and cross-examination of the mentioned defendant, and the closing arguments to characterize the progression of a stereotype constructed around the defendants.

4.3.1 Comparison of progressive construction of stereotypes

In both trials, during the opening statements, semantic prosodies and promises were the stepping stones of the prosecution to introduce and develop the accused stereotypes. On the one hand, prosodies with a high number of occurrences were used to present the stereotypes of anti-systemic, inciter of violence, and satanic. On the other hand, promises identified in both cases were 'of evidence', that function as an introduction to constructing the previously mentioned stereotypes. Even though the latter did not have much usefulness in thoroughly developing the defendant's stereotypes, they did accomplish the purpose of introducing the narrative that supposedly will be followed throughout the trial.

Concerning witness testimony, the types of questions asked during the direct examination allowed the defendants the opportunity to openly resist the anti-systemic stereotypes. However, defendants Abbie Hoffman and Damien Echols presented little resistance to the stereotype imposed. For example, in the case of defendant Hoffman, he embraced the Yippie identity, which is closely associated with the political anti-systemic stereotype. And in the case of Damien Echols, he partially embraced the stereotype as his resistance was not strong enough in relation to the charges that he was being accused as he gave incriminatory answers, eliciting the construction of the stereotype from the prosecution.

It can be seen that trials are, in fact, complex dialogical constructions where the intentions of the different participants compete (with different motivations, not only legal ones) in the establishment of identities and stereotypes. As such, the intentions of single individuals to construct/resist different stereotypical representations are in constant tension, and cannot be characterized by examining trial stages in an isolated fashion, but only through

their development across stages. The dynamic and co-constructed strategic progression of the trial, then, is the key concept (complex as it is) this study has focused on.

In both trials, the prosecution's remark on the regular consumption of substances by the defendants functioned as a milestone for the prosecution lawyer's argumentative line during the witness testimonies. On the one hand, in West Memphis Three, the prosecution raised several questions concerning Damien Echols's regular consumption of medication for his manic depression. The latter connects with the development of the satanic stereotype, which develops from the assumption that a satanist is usually mentally unstable. Thus, the prosecution implied that the defendant needed more medication to suppress his killing thrill as, after all, he had a mental illness. On the other hand, in The Seven of Chicago's case, the prosecution lawyer assumed, through his questions, that the use of illegal drugs by defendant Abbie Hoffman was one of the catalysts that motivated the disinhibition and violence seen in Chicago. Hence, it enhances the anti-systemic stereotype, as, in general, the consumption of illegal drugs is against the ideals and values the political establishment promotes as morally correct in American society

It is worth mentioning that the progression of the stereotype was evident during the closing statements of both trials due to the external pressure from the media and the specific context of each case. For example, the lexical item *evil* is employed mainly during closing arguments to enhance and portray the defendants as bad citizens. Thus, the closing statements associated lexical items with preconceived conceptions of history, morals, and values promoted by the media of the time, which helped to construct the satanic/inciters of violence and anti-systemic stereotypes even before the trials began.

Closing arguments are the last instance where lawyers can make their point about their perception and argumentative line regarding the defendants' identity and restate them to persuade the jury in their favor. Furthermore, closing statements also function as a way to highlight flaws in the opposing party, as it creates a space for either the defense or prosecution to heighten their position by diminishing the credibility of the other to the jury.

In the two corpora selected, rhetorical questions were recurrent in closing arguments. The use of rhetorical questions is deployed as a persuasive strategy by both prosecution and

defense lawyers to reconstruct the narrative developed in the trial for the jury. Thus, it helped to refresh the stereotype previously constructed by the prosecution, while, for the defense, it was a strategy to display the last arguments to resist the stereotype. In the case of The West Memphis Three, rhetorical questions were made to express questions as if they were being made by the jury themselves. Differently, during The Seven of Chicago trial, lawyers used them to emphasize the morals and values that were at stake during the trial and that the jury had to acknowledge.

On the one hand, in The Seven of Chicago, the defense formulated rhetorical questions to validate the demonstrations as a patriot act of the defendants, "*What do you suppose would have happened to the working men except for these rebels all the way down through history?*". While the prosecution called to remember the arguments given during the trial "*For that, are we to forget the four-and-a-half months of what we saw?*". On the other hand, in the case of West Memphis, rhetorical questions of the defense lawyer sought to persuade the jury throughout the trial, specifically on the witness testimony and the closing argument that the police investigation was not carried out properly, as the police had other leads to follow that they actively chose not to as it is seen in the example "*was Inspector Ridge in fact checking all possible suspects?* Or *was he only doing this just because some lawyer happened to ask him to do that? Or was there other evidence indicating that Mr. Byers might've been a suspect?"*. Contrastively, the prosecution's use of rhetorical questions was aimed at making the jury think about the victim while being killed as seen in "*[...] what do you think he's gonna do, no matter what the head injuries are? Use your common knowledge. What do you think he's gonna do? You think he's just going to sink to the bottom? Don't you think he'd be struggling, and thrashing to get some air?".*

Additionally, in the closing arguments, both trials presented instances of Face Threatening Attacks mainly directed to the negative face. These instances of FTA are relevant since closing arguments tend to be monologues structures, thus, arguments that arguments and interruptions that attack the image of the other are infrequent acts. In both West Memphis Three and The Seven of Chicago's closing arguments, it was found that semantic prosodies in Face Threatening Acts were used by the prosecutions rather than by the defenses to consolidate the stereotypes. The defense, then, was not successful at resisting

the stereotype that the prosecution constructed as both gave more prominence to the shared stereotype, across corpora, of being anti-systemic. These stereotypes were multiple; one of them is the anti-systemic stereotype which is shared by the two defendants analyzed, corresponding with prevailing against the political and religious status quo of their respective contexts. At the same time, both defendants had just as prominent side stereotypes as well, as is the case of inciters of violence and satanic for Hoffman and Echols, respectively.

Across corpora, it was found that the treatment given to the defendants is contradictory as they are treated as masterminds of premeditated crimes but also as anti-systemic boyish, immature individuals. While defendant Echols was indeed a seventeen year old boy, this very fact makes it difficult for him to be a mastermind of the crime at such a young age. Conversely, in relation to defendant Hoffman, this associated immaturity is interesting to note. He is in fact a 33 year old man with an already robust political career, but that is still belittled as an anti-systemic teenager. Immaturity, then, seems to be one of the constituent attributes of the anti-systemic stereotype constructed across corpora, conceptualizing related behaviors as those one could expect to find in a foolish angry teenager. Needless to say, portraying the defendants as such is contradictory to identifying them as the cold-minded masterminds behind the crimes. Therefore, it is possible to advance the idea that, to be considered as such, stereotypes do not need to be constituted by logically, coherently organized related attributes; as it seems, they can be even contradictory to each other in some dimension, and still work very persuasively to construct a rather simple-to-understand intended representation.

4.3.2 Contrast of progressive construction of stereotypes

In the two trials, the lawyers used a variety of semantic prosodies to construct the stereotypes of anti-systemic defendants. On the one hand, in The Seven of Chicago case, the defendant was stereotyped by the use of semantically accentuated items from the opening statements. On the other hand, in the case of West Memphis Three, the lexical items that contributed to the construction of the satanic stereotype of the defendant Echols appeared gradually throughout the trial. Later, during the testimony, it was possible to identify that instead of

resisting, defendant Hoffman aided the semantically accentuated words with his answers, which helped the prosecution to construct the stereotype of an anti-systemic and inciter of violence. Thus, words and phrases such as *yippie myth*, *system*, and *free* were used later by the prosecution lawyers to maintain the construction of the stereotype as inciters of violence on the defendants, whose political beliefs were based on immature actions, such as doing drugs during the protests. Hoffman stated that he did not believe in the judicial system of the country; thus, from the prosecution's view, the defendant is presented as a man who is against the American democratic system and supports his idea of freedom in different social spheres. Hence, through his answers, Hoffman embraced his social identity, and at the same time helped the prosecution to maintain the stereotype.

Even though a similarity exists between the responses given by the defendants, Abbie Hoffman of The Seven of Chicago already had a political career related to the anti-systemic stereotype. Then, Hoffman's answers during the direct examination and cross-examination could not avoid deepening his Yippie philosophy which was misunderstood with a violent anti-systemic purpose. Differently, Damien Echols of The West Memphis Three gave more roundabout answers to the questions, and although he identified himself as Wiccan, a cosmovision apart from the common socially accepted ones, he did resist the stereotype of a satanic murderer of children, a stereotype that can not be presented in any positive light by anyone; it was a behavior and identity he did not embrace fully.

Contrarily, in the West Memphis Three, defendant Damien Echols never embraced the satanic stereotype; however, and naively confident in his own innocence and in the judicial system, he did not seem to have considered it necessary to be more emphatic in his resisting answers, which turned out to be in fact necessary, as the notoriously negative satanic stereotype constructed on him most likely did required more adamant responses to be successfully neutralized in the eyes of the jury. Still, the defendant only responded to the questions asked by the lawyers and did not bring up other lexical items relevant to the development of the stereotype constructed on him of an anti-systemic satanic teenager. In the end, Echols' answers were not as helpful as needed to the resistance to the stereotype, as he did not deny his knowledge nor his interest in Wicca. In addition to this, the testimony of the

expert witness on satanism, Dale Griffs, also contributed to the semantic prosodies used in the construction of the satanic stereotype of Echols during his testimony.

In relation to lawyers' questions across corpora, the most recurrent ones during the direct and cross-examination of The Seven of Chicago's case were tag questions, while in Memphis Three it was polar questions. On the one hand, in the Seven of Chicago, tag questions asked for confirmation about a proposed statement that had the possibility to be discussed by the defendant. On the other hand, in Memphis, polar questions did not allow any other answer besides yes/no. The defendants' answers to those questions, in turn, helped them to construct their identity. Defendant Hoffman embraced a social identity related to the Yippie political philosophy, and defendant Echols expressed, without greater depth, about his interest on the wiccan cosmovision. Consequently, none of them was able to strongly resist the stereotype imposed by the prosecution during witness testimony.

In The Seven of Chicago case, the defense lawyers used various prosodies such as *fight, protest*, and *free* as a strategy to construct a philosophical and patriotic narrative to be more appealing to the jury's empathy. However, these strategies were not maintained throughout the trial, since the verb *to protest* lost its progression after the opening statements, while free is employed by the defense after the witness testimony where defendant Hoffman used it repeatedly. In West Memphis Three, in contrast, the use of adjectives were the most marked progression in the case as it changed from *weird* to *satanic* with an important number of occurrences. Regarding the semantic prosodies used by the prosecution, in the Seven of Chicago, it is possible to conclude that certain semantically accentuated items such as *plan(ned)* and *fight* are maintained throughout the trial to contribute to the construction of the inciters of violence, anti-systemic stereotype on the defendants. While in West Memphis Three, the semantically accentuated items employed by prosecution lawyers were only directly linked to the satanic stereotype in the witness testimony and the closing argument as in the opening statement there were hints of the stereotype by describing the crime scene. In the last case, it is worth mentioning that semantic prosodies were intensified instead of just maintained from the opening statements, moving from an adjective that broadly referred to satanic to the more specific ones to consolidate the stereotype of satanic and anti-systemic stereotype on defendant Echols.

Through the use of semantic prosodies, it was also possible to identify that during the closing arguments, the presence of jurisprudence[17] established by the defense lawyer of the Seven of Chicago was used as a legal and persuasive technique to validate the actions of the defendants, thus trying to objectivize the case as evidence is feeble. In contrast, during the closing arguments of the West Memphis Three, the prosecution lawyer emphasized the crime narrative through the display of evidence of a knife that could have been related to the crime, even when these procedures are not common in this phase of the trial as it is the witness testimony in which lawyers present evidence.

Regarding Face Threatening Acts, one of the most considerable differences between The Seven of Chicago trial and the West Memphis Three trials is that, in the former, there is an active interruption and influence of the judge, Julius Hoffman. Throughout the whole trial, Judge Hoffman's objections and interruptions continuously attack the positive face of the defense lawyers, William Kunstler and Leonard Weinglass, and defendant Abbie Hoffman. The tension between the defense and the judge gets to a point where the defense directly accused the judge for his biased behavior, saying: "[I]n the years I have practiced in both federal and state courts, I have never accused if I can recall at all, either judge or prosecutor of using intimidating tactics on me. This is my first time." The judge's continuous and irrelevant interruptions specifically directed to the defense made the trial a tense environment between participants, where it became evident the blatant bias Judge Hoffman had against the defendants —which ultimately facilitated the stereotyping work of the prosecution.

In contrast, during the closing arguments of the West Memphis Three face attacks against the face of the defendant were predominantly targeted against defendant Echols. Through the use of 'common sense' the prosecution openly mocked the identity constructed by the defendant's answers concerning his assumptions of the crime as seen in examples 93, 94 and 95. The latter idea of mockery refers to the instances in which the prosecution ridiculed the defendant owing to the fact that he, the one that allegedly killed three eight-year-olds, wrote silly poems. The most important instance of attack towards the negative face

[17] Jurisprudence seeks to reveal the historical, moral, and cultural basis of a particular legal concept. (Cornell Law School, n.d.)

was seen by the prosecution asking the defense to prohibit the use of antidepressants to the defendant to see him 'how he truly is'.

5. Conclusions

This study confirms that opening statements are one of the most powerful instances for lawyers to persuade the jury into a preliminary judgment that will aid the jury to understand the case in the strategically intended way. Consequently, the use of strategies during this part of the trial is essential for the progressive narrative construction of and resistance to the anti-systemic stereotypes. The lawyers, then, use these strategies to support their case —and more importantly, the construction of the stereotypes— such as semantic prosodies, face attacks, calculated question formulation, and (though to a lesser extent) promises made by lawyers of both parties proved to be frequent, even if variably successful.

In the opening statements of both cases, it was possible to identify semantically accentuated words that contributed to the development of the stereotype. Opening statements in The Seven of Chicago's trial contained a high number of occurrences of semantic prosodies, as the lexical items *plan, conspiracy, fight, and protest* appeared several times to introduce the stereotype and the identity of the defendants. While, in the analysis of the West Memphis Three's trial, the most relevant semantic prosodies were the adjectives *weird* and *unnatural*, and the noun *ditch*. While *weird* was used to describe the defendant, *unnatural* and *ditch* were implemented *to* describe the crime scene with a later implication of the characteristics of the defendant (in the case of *unnatural*). To conclude, in opening statements prosecutors used semantic prosodies to establish the steppingstones for the construction of the stereotypes. These initial semantic prosodies were essential to the progression of the construction of the stereotypes, due to the fact that from the initial instance of the trial, the defendant is portrayed as someone —and more importantly, someone who committed said crime— who is different from the courtroom and society.

About FTAs, a relevant characteristic of the face attacks that occurred during opening statements was that all of them fall into the category of on-record. However, in the case of

Chicago, the frequent interruptions and other instances of FTAs are relevant due to a biased attitude of judge Hoffam against the defense, which contributed to the initial development of the stereotype, thus setting a specific tone to the eyes of the jury even from the first day at trial. Therefore, even though in the opening statements there were attacks on the positive face between the lawyers and the judge, attacks on the negative face, interruptions made by lawyers predominated. Differently, during the opening statements of the West Memphis Three trial, there were no interventions and there was predominantly positive politeness between the participants in the courtroom, though the defense inadvertently attacked the positive face of the defendant once by using the adjective *weird* to describe him, which counterproductively constituted the first reference to a concept that was later strategically resumed by the prosecution to negativize it into the highly productive *satanic*. Strategic constructions, then, evolve dynamically according to what has proven to successfully work (or not) both in one's own as in others' discourse; in the stereotyped strategic constructions just mentioned, it was ultimately (and unexpectedly) the prosecution that benefited from the reference to the defendant's *weirdness* first advanced by the defense.

In the category of face attacks during opening statements, the speech act of promising provided some hints for the stereotype that the prosecution lawyers wanted to develop in the rest of the trial. The analysis identified two types of promises: 'promise of action' and 'promise of evidence'. In the opening statements of the Seven of Chicago, only promises of evidence were identified. Contrastingly, in Memphis, there were instances of both types of promises, since lawyers mentioned a possible way of action that they were going to follow and the evidence that they will provide throughout the trial in the case of the prosecution. Nevertheless, since promises of action were not fruitful to prove the stereotype construction, promises of evidence become more prominent in both the prosecution and defense arguments in both trials. In any case, and as mentioned elsewhere, the making of promises and subsequent promise accountability (expected later in closing arguments) did not demonstrate to directly contribute to the construction of/resistance to the stereotypes. It is through instances of semantic prosodies and various types of face attacks within promises that they showed assisting this end, and so the usefulness of analyzing promises as speech acts was marginal.

Witness testimony is the evidential stage of the trial in which lawyers must present and focus on their evidence and witnesses to prove their arguments. Thus, the narrative is likely to consist of just an orientation to the core narrative (Harris, 2001, as cited in Stygall, 2012). In witness testimony, the progression of the semantic prosodies, the types of questions and answers, and the instances of face attacks were all examined in relation to the progression and resistance to stereotypes.

In the Seven of Chicago's trial, it was possible to observe that some prosodies used during the opening statements were not maintained during the witness statements and closing arguments, since the narrative of the lawyers were focused on a specific identity towards the defendant which was molded by the prosecution and the progression/resistance of the stereotype relies only on the distinctive use of prosodies by defendant Hoffman. Thus, to construct his political identity, defendant Hoffman opened the door to new relevant lexical items in his responses as *free*, *yippie*, and *system*, which did not help in the development of the stereotype imposed on him as an anti-systemic but helped to construct his social identity, as these prosodies mentioned have more relation with his ideologies and beliefs rather than with his actions. In the West Memphis Three case, the use of prosodies during the witness testimony increased in comparison to the opening statement. While in the opening the adjective *weird* was the only adjective used to refer to the defendant and *unnatural* to refer to the crime scene, in the witness testimony, the defendant, the crime scene and the defendant's possessions were characterized with the lexical items: *evil*, *Wiccan*, *satanist*, and, the most recurrent, *satanic*. The latter was a direct transformation from the adjective *weird*, in this sense, it is possible to establish the progression early on the trial.

Regarding the types of questions, questions with an overarching guiding purpose were typical, presented as polar questions and negative tag questions. On one hand, the prosecution aimed to seek specific responses from the defendants to confirm not only the indictments but also the stereotypes constructed about them. On the other hand, the defense used these questions to provide the opportunity for the defendants to confirm or deny the facts that could contribute to the construction of their stereotypes. The responses in the trial of Chicago showed that defendant Hoffman was willing to embrace his social and political identity, and thus, counterproductively contributed to the construction of the stereotype of

anti-systemic imposed on him. On the other hand, in the case of West Memphis, the findings show the defendant Echols partially resisted the satanic and religious anti-systemic stereotypes. Although his answers mainly deny and resist said stereotypes, his answers showed a defensive position towards his identity and his beliefs, his —rather naïve— answers regarding his Wicca religion and satanist interests turned out to be counterproductive for the resistance of the stereotypes, as he placed himself as someone different and with satanic knowledge.

During witness testimony, the only dialogical stage of the adversarial phase of the trial, face attacks became more relevant since the interactions were directed at the defendant, and the interventions between lawyers and judges were more frequent. Although biased interventions are a particular feature in the Chicago trial, in both cases, the exchanges related to FTAs fall into the category of on-record, and the attacks on the positive face are the ones that predominated in this phase of the trial. Moreover, among the participants in both analyses predominated the attacks to the positive face. In comparison to the closing arguments, the greatest instances of Face Threatening Acts were produced during the stages of opening statements and witness testimony.

After witness testimony, at the end of the trial and immediately before the jury leaves the courtroom to start deliberations, closing arguments are not just about getting across the right story (which has so far been being told), but also about conveying the right impression (Heffer, 2005) and emphasizing the most strategic ones. Consequently, lawyers employ the strategy of rephrasing relevant ideas already mentioned during opening statements and witnesses' testimonies Lawyers can now make fresh and better tailored reference to most kinds of information presented earlier in the trial, and in doing so, they can reinforce strategic elements that proved successful to their own case, as well as point up those that did not do so to their opponent's. Closing arguments are, in the end, eloquent summaries of the arguments and strategies that worked during the trial, and also an instance to point up, neutralize, or silence those that did not, according to the specific case one is making. By emphasizing and adjusting strategies, then, lawyers make the most out of this final opportunity to wrap up the story that better suits their narrative.

In this final critical stage, it is possible to observe the progression of the construction of the stereotype as a cumulative process. The analysis for closing arguments considered the progression of the semantic prosodies already used by the lawyers through the trial, the fulfillment of the promises made during opening statements, the instances of face attacks, and their influence to concrete or resist the stereotype. In relation to semantic prosodies, the closing arguments of both trials included major compilation of almost all semantic prosodies used throughout the trial, as discussed below.

During closing arguments there was a notable use of semantic prosodies, frequently presented with relevant adjectives for the purpose of consolidating the defendants' stereotypes. However, during this stage it is worth noting how the lexical items of the opening statements progressed through the trial. For instance, the lexical item *protest* showed to have lost the initial importance received during opening statements, while *plan* and *fight* maintained a similar number of occurrences during openings statements, witness testimony and closing arguments. These words were related to the emphasis of the prosecution to maintain the so far perceivably successful construction of the stereotype of the defendants as anti-systemic and violence inciters. The progression of the construction of the satanic stereotype is observed in this shift of semantic prosodies, as the adjectives *satanic* and *weird* were increased in occurrence in the case of the prosecution and defense closing arguments, respectively. Conversarly, prosodies used throughout the trial related to the stereotype were partially lost during this section such as evil, satanist, and Wiccan. In this sense, the adjective *weird* and *Wiccan* is replaced by a more suitable and effective adjective from the prosecution to reinforce construction of the stereotypes: *satanic*.

Concerning the promises made during the opening statements and their expected accountability now at the end of the trial, and as explained above, these did not behave in significant ways in the construction/resistance to the stereotypes of the defendants. It is in fact through the internal composition of promises in terms of their constituting semantic prosodies and the face attacks they may comprise that these speech acts proved relevant to the strategic portrayal of the defendants. Therefore, and after the analysis was already complete, it was concluded that a speech act analysis of promises is not the most direct way to address the type of narrative construction examined in this study.

Still, in order to summarize the main findings related to lawyers' promises in closing statements, it is worth noting that promises were not a productive strategy for the development of the stereotype in the Seven of Chicago. Defense lawyers and prosecution lawyers fulfilled their promises successfully, thus, both parties attempted to discredit the fulfillment of the other's promise to maintain the credibility of their arguments, and the reliability of the stereotype in the case of the prosecution.

In West Memphis Three none of the defense lawyers could demonstrate to have fulfilled their opening statements' promises. In the last case, the defense' weakness was transformed into a prosecution's strength, as they had a better opportunity to support the apparent validity of the stereotype presented to the jury, which in both cases returned guilty verdicts. Although less successful, the defense in the West Memphis Three trials also pointed the unreliability of the prosecution by mentioning, for example, the lack of thoroughness of the police during the investigation, which resulted in a lack of evidence, which in turn led to the aforementioned unreliability. Although promise accountability contributed, however partially, to the establishment of the satanic and religious anti-systemic stereotype in the West Memphis trial, there were no clear signs of analogous contribution in the case of defendant Hoffman from the Seven of Chicago trial. Therefore, the overall dynamic between lawyers of enhancing their own fulfilled promise and pointing out the counterpart's infelicitous ones did not prove directly useful to the stereotype progress, and seems then more easily examined as a strategic generic step (with constituting semantic prosodies and face attacks, that did prove useful) of the opening statement and the closing argument rather than purely as speech acts. The trial West Memphis Three was a case where critical physical evidence was not produced; in this scenario, it was mainly social and discourse constructions that were strategically used in order for prosecutors to persuasively present their cases, and for defense lawyers to resist them.

In the case of Seven of Chicago, the defendants, as protestors and activists, already had reputations in the sociopolitical sphere, which facilitated both the negativizing prosecution narrative oriented towards the construction of the anti-systemic inciter of violence, but also the defense's positivizing counter-representation of the defendants as patriots. The presentation and legitimation of prosecution's position was also facilitated by

the influences of Judge Julius Hoffman through his impolite remarks, interruptions, and objections directed towards the defense throughout the trial. All in all, it can be argued that the jury may have come to a guilty verdict mainly upon successful strategic discourse constructions already validated by social actors perceived as relevant authorities, such as the media and the State (embodied here in the prosecution and the lawyer).

In the case of Memphis Three, the community from where the jury was selected had already been exposed to an extremely negative stereotype —satanic, that could not be positivized, but only resisted— of the defendant that had been massively propagated through the media even before the trial began. This stereotype was constructed based mainly on distorted interpretations of his beliefs and on his looks and artistic interests. In absence of physical evidence directly linking the defendant to the crime, the construction of this stereotype received most of the attention of the prosecution during the trial, which ultimately proved useful considering the guilty verdict returned by the jury. In the end, in both cases analyzed, it can be said that raising relevant stereotypes during the adversarial phase of the trial is in fact productive when pursuing the conviction of a defendant, even (and arguably especially) when no solid evidence is presented.

5.1 Limitations

There were several limiting factors encountered during the research process. First, it was not possible to access a complete audiovisual material (video or audio recordings) of both cases, limiting the interpretations made as suprasegmental elements (such as intonation, pauses, could have helped to identify, for example, sarcasm and irony) could not be considered. Along the same line, multimodal language (such as gesture, gaze, and rhythmic functions) has a great impact on the jury's perception of the defendant, especially during closing arguments (Matoesian & Gilbert, 2017), which was not possible to analyze either. Secondly, concerning the current state of the literature regarding the topic of this research, as only few studies have described closing arguments in any relevant way to the purposes of this analysis. This limitation partially explains the rather unsuccessful decision to include promise accountability as part of the specific objectives of the study, as in absence of germane

literature, it was first thought that these speech acts could be considered relevant for narrative construction in this final stage of the trial. However, as explained, this course of examination was not especially illuminating, and the conceivably unnecessary attention given to it could have been more productively granted to other analytical angles. Still, it is expected that this research will be a contribution to the discipline to help fill theoretical gaps in the description of closing statements.

Finally, an obviously more thorough analysis of the progression and the establishment of the stereotypes would have been possible if it had included an examination of the entire trials and their participants. However, because of the extension and complexity of the present research, it was not possible to include a complete analysis of all the defendants in the two trials.

5.2 Projections

One major projection of this research is to expand the corpus of analysis to consider the construction of the other participants of the trial, especially the other defendants that were involved directly in the construction of the stereotypes. Coupled with the study of other defendants', the construction of the jury is also relevant to mention as a projection from this study, which is important when discussing the construction of the stereotypes of the defendants' identities.

Due to the extent of this research, it was not possible to analyze all the semantic prosodies and their relevant collocations present in both corpora. Consequently, another projection of this research is to analyze both corpora with more broad selection criteria in each trial.

Also, the relevance and influence of the press in both The Seven of Chicago and The West Memphis Three trials, as well as in other similar cases built mainly around relevant stereotypes, is yet another angle to continue investigating on. The role the media played in the pre-trial stereotypical construction of the defendants, and the latter's intertextual influence on the different ways that mediatic trials proceed, are undoubtedly interesting and

socially relevant dimensions to further explore in these and other comparable trials. Along the same lines, more studies should address the function of stereotypes, and their linguistic manifestation, in trials characterized by lack of physical evidence, as they constitute the most fertile ground for the conceivably unduly narrative construction of stereotypes during jury trials.

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Appendix

The Seven Of Chicago Trial

Opening statement on behalf of the Government by Mr. Schultz

SCHULTZ: [...] The Government, ladies and gentlemen of the jury, will prove in this case, the case which you will witness as jurors, an overall plan of the eight defendants in this case which was to encourage numerous people to come to the city of Chicago, people who planned legitimate protest during the Democratic National Convention which was held in Chicago in August of 1968, from August 26 through August 29, 1968. They planned to bring these people into Chicago to protest, legitimately protest, as I said, creat[ing] a situation in this city where these people would come to Chicago, would riot… [T]he defendants, in perpetrating this offense, they, the defendants, crossed state lines themselves, at least six of them, with intent to incite this riot.

[Without the presence of the jury]

THE COURT: This will be but a minute, Mr. Marshal. Who is the last defendant you named?

SCHULTZ: Mr. Hayden.

THE COURT: Hayden. Who was the one before?

SCHULTZ: Davis, and prior to that was Dellinger.

THE COURT: The one that shook his fist in the direction of the jury?

HAYDEN: That is my customary greeting, your Honor.

THE COURT: It may be your customary greeting but we do not allow shaking of fists in this courtroom. I made that clear.

HAYDEN: It implied no disrespect for the jury; it is my customary greeting.

THE COURT: Regardless of what it implies, sir, there will be no fist shaking and I caution you not to repeat it.

[...]

[SCHULTZ continuing with his opening statement—ed.]

SCHULTZ: […] The Defendants Dellinger, Davis and Hayden joined with five other defendants who are charged in this case in their venture to succeed in their plans to create the riots in Chicago during the time the Democratic National Convention was convened here. Two of these defendants, the Defendant Abbie Hoffman who sits— who is just standing for you, ladies and gentlemen—

THE COURT: The jury is directed to disregard the kiss thrown by the Defendant Hoffman and the defendant is directed not to do that sort of thing again.

SCHULTZ: […] Ladies and gentlemen of the jury, the Government will prove that each of these eight men assumed specific roles in it and they united and that the eight conspired together to encourage people to riot during the Convention. We will prove that the plans to incite the riot were basically in three steps. The first step was to use the unpopularity of the war in Vietnam as a method to urge people to come to Chicago during that Convention for purposes of protest. The first was to bring the people here. The second step was to incite these people who came to Chicago, to incite these people against the Police Department, the city officials, the National Guard and the military, and against the Convention itself, so that these people would physically resist and defy the orders of the police and the military. So the second step, we will prove, was to incite, and the third step was to create a situation where the demonstrators who had come to Chicago and who were conditioned to physically resist the police would meet and would confront the police in the streets of Chicago so that at this confrontation a riot would occur…[...] First they demanded, when these people arrived in Chicago, to sleep in Lincoln Park. At one point they were talking in terms of up to or exceeding 500,000 people who were coming to Chicago to sleep in Lincoln Park and they demanded free portable sanitation facilities, they demanded free kitchens and free medical facilities. The second demand, non-negotiable demand which was made by those defendants I just mentioned, was for a march to the International Amphitheatre where the Democratic National Convention was taking place. They said they were going to have a march of up to or exceeding 200,000 people. Although they were told that the United States Secret Service which was charged with the protection of the President of the United States, the Vice President of the United States and the candidates for nomination—although they were told that the Secret Service said that a permit could not be authorized because of the danger to the security of these individuals, the President and the Vice President and the candidates, the defendants demanded a permit for a march…

So, ladies and gentlemen, of the jury, the Government will prove with regard to the permits that I have just mentioned that the defendants incited the crowd to demand sleeping in Lincoln Park and to

demand that [they] march to the Amphitheatre so that when the police ordered the crowd out of Lincoln Park at curfew and when the police stopped the march, the crowd, having been incited, would fight the police and there would be a riot.

[...]

The Government will not prove that all eight defendants met together at one time, but the Government will prove that on some occasions two or three of the defendants would meet together; on other occasions four would meet; on some occasions five of them would meet together to discuss these actions, and on several occasions six of the defendants met together to discuss their plans…

In sum, then, ladies and gentlemen, the Government will prove that the eight defendants charged here conspired together to use interstate commerce and the facilities of interstate commerce to incite and to further a riot in Chicago; that they conspired to use incendiary devices to further that riot, and they conspired to have people interfere with law enforcement officers, policemen, military men, Secret Service men engaged in their duties; and that the defendants committed what are called overt acts in furtherance of the conspiracy—that is, they took steps, they did things to accomplish this plan, this conspiracy…

[...]

THE COURT: Is it the desire of any lawyer of a defendant to make an opening statement?

MR.KUNSTLER: It is, your Honor.

THE COURT: All right. You may proceed, sir.

MR.KUNSTLER: Your Honor, it is 12:30.

THE COURT: I know, I am watching the clock. You leave the— What does that man say— you leave the time-watching to me— on the radio or TV— leave the driving to me. Mr. Kunstler, I will watch the clock for you.

MR.KUNSTLER: Your Honor, will you permit us to complete the opening statements?

THE COURT: I will determine the time when we recess, sir. I don't need your help on that. There are some things I might need your help on; not that.

Opening statement on behalf of certain defendants by Mr. Kunstler

[...]

Now the Government has given you its table of contents. I will present to you in general what the defense hopes to show is the true book. We hope to prove before you that the evidence submitted by the defendants will show that this prosecution which you are hearing is the result of two motives on the part of the Government—

SCHULTZ: Objection as to any motives of the prosecution, if the Court please.

MR.KUNSTLER: Your Honor, it is a proper defense to show motive.

THE COURT: I sustain the objection. You may speak to the guilt or innocence of your clients, not to the motive of the Government.

MR.KUNSTLER: Your Honor, I always thought that—

SCHULTZ: Objection to any colloquies, and arguments, your Honor.

THE COURT: I sustain the objection, regardless of what you have always thought, Mr. Kunstler.

[...]

MR.KUNSTLER: The evidence will show as far as the defendants are concerned that they, like many other citizens of the United States, numbering in the many thousands, came to Chicago in the summer of 1968 to protest in the finest American tradition outside and in the vicinity of the Convention, the National Convention of the party in power. They came to protest the continuation of a war in South Vietnam which was then and had been for many years past within the jurisdiction of the party in power which happened to be the Democratic Party at that time…

There was, as you will recall, and the evidence will so indicate, a turmoil within the Democratic Party itself as to whether it would enact a peace plan, as part of its platform. This, too, would be influenced by demonstrators. The possibility of this plank was what motivated many of the demonstrators to come to Chicago. The possibility of influencing delegates to that National Convention to take an affirmative strong stand against a continuation of this bloody and unjustified war, as they considered it to be along with millions of persons was one of the prime purposes of their coming to Chicago…

At the same time as they were making plans to stage this demonstration and seeking every legal means in which to do so, the seeking of permits would be significant, permits in the seeking of facilities to put their plans into operation in a meaningful and peaceful way.

[...]

At the same time as all of this was going on, the evidence will show that there were forces in this city and in the national Government who were absolutely determined to prevent this type of protest, who had reached a conclusion that such a protest had to be stopped by the— the same phrase used by Mr. Schultz— by all means necessary, including the physical violence perpetrated on demonstrators. These plans were gathering in Washington and they were gathering here in this city, and long before a single demonstrator had set foot in the city of Chicago in the summer of 1968, the determination had been made that these demonstrations would be diffused, they would be dissipated, they would essentially be destroyed as effective demonstrations against primarily the continuation of the war in South Vietnam…

We will demonstrate that free speech died here in the streets under those clubs and that the bodies of these demonstrators were the sacrifices to its death…

[…]

[T]he defense will show that the real conspiracy in this case is the conspiracy to which I have alluded, the conspiracy to curtail and prevent the demonstrations against the war in Vietnam and related issues that these defendants and other people, thousands, who came here were determined to present to the delegates of a political party and the party in power meeting in Chicago; that the real conspiracy was against these defendants. But we are going to show that the real conspiracy is not against these defendants as individuals because they are unimportant as individuals; the real attempt was—the real attack was on the rights of everybody, all of us American citizens, all, to protest under the First Amendment to the Constitution, to protest against a war that was brutalizing us all, and to protest in a meaningful fashion, and that the determination was made that that protest would be dissolved in the blood of the protesters; that that protest would die in the streets of Chicago, and that that protest would be dissipated and nullified by police officers under the guise of protecting property or protecting law and order or protecting other people…Dissent died here for a moment during that Democratic National Convention. What happens in this case may determine whether it is moribund.

[...]

[At this point in the trial the Court summarily held in contempt of court two Defense Lawyers, Michael J. Kennedy and Dennis J. Roberts, who attempted to withdraw from the case. Mr. Sullivan is their counsel]

THE COURT: I don't think there is any doubt that those two lawyers are in contempt. I will sign the order. I said substantially these things orally already.

SULLIVAN: May I be heard on this, your Honor?

THE COURT: Yes.

SULLIVAN: I object on behalf of Messrs. Kennedy and Roberts to the entry of this order. I would like an opportunity to respond.

THE COURT: No, I will sign the order, Mr. Sullivan.

[...]

THE COURT: Is there any other defense lawyer who wishes to make an opening statement to the jury? I take it that your standing there means yes, you do, Mr. Weinglass.

[...]

WEINGLASS: […] I leave the judgment of what is a non-negotiable demand to you, but you are going to hear some interesting evidence in the course of this case on that issue, because the city, the people who were in charge of granting to these young people the right which they have as citizens to congregate, and meet, and we contend even sleep in our public parks which are publicly-owned property held in trust for the public by the public officials, were reasonable demands which the city could have met if the persons responsible for that decision would not have been persons who were so fearful and so misunderstood the young in this country that they could not meet and talk to them in a reasonable, rational way…

[...]

THE COURT: I have repeatedly cautioned you. I caution you again, Mr. Weinglass. I think you understand me. You persist in arguing and telling the jury what you propose to do in respect to objections.

WEINGLASS: Yes, I thought that was the purpose of an opening statement.

THE COURT: That is not the function of an opening statement. I have cautioned you time and time again. I caution you once more.

WEINGLASS: I thought that was the purpose of an opening statement. Thank you, your Honor.

THE COURT: Don't thank me. I didn't do it as a favor to you. I am cautioning you not to persist in it…

THE COURT: Mr. Weinglass, I have repeatedly admonished you not to argue to the jury, not to tell the jury anything other than what in your opinion the evidence will reveal.

I think your persistency in disregarding the direction of the Court and the law in the face of repeated admonitions is contumacious conduct, and I so find it on the record.

[...]

THE COURT: Does any other defense lawyer wish to make an opening statement? Just a minute, sir. Who is your lawyer?

SEALE: Charles R. Garry.

FORAN: Your Honor, may we have the jury excused?

THE COURT: Ladies and gentlemen, I am sorry, I will have to excuse you again.

[Without the presence of the jury]

THE COURT: Mr. Kunstler, do you represent Mr. Seale?

MR.KUNSTLER: No, your Honor, as far as Mr. Seale has indicated to me, that because of the absence of Charles R. Garry—

THE COURT: Have you filed his appearance?

MR.KUNSTLER: Filed whose appearance?

THE COURT: The appearance for Mr. Seale.

MR.KUNSTLER: I have filed an appearance for Mr. Seale.

THE COURT: All right. I will permit you to make another opening statement in behalf of Mr. Seale if you like. I will not permit a party to a case to—

MR.KUNSTLER: Your Honor, I cannot compromise Mr. Seale's position—

THE COURT: I don't ask you to compromise it, sir, but I will not permit him to address the jury with his very competent lawyer seated there.

Direct examination of Defendant Abbie Hoffman by Mr.Weinglass

WEINGLASS: Will you please identify yourself for the record?.

THE WITNESS: My name is Abbie. I am an orphan of America.

SCHULTZ: Your Honor, may the record show it is the defendant Hoffman who has taken the stand?

THE COURT: Oh, yes. It may so indicate…

WEINGLASS: Where do you reside?

THE WITNESS: I live in Woodstock Nation.

WEINGLASS: Will you tell the Court and jury where it is?.

THE WITNESS: Yes. It is a nation of alienated young people. We carry it around with us as a state of mind in the same way as the Sioux Indians carried the Sioux nation around with them. It is a nation dedicated to cooperation versus competition, to the idea that people should have better means of exchange than property or money, that there should be some other basis for human interaction. It is a nation dedicated to…

THE COURT: Excuse me, sir. Read the question to the witness, please.

[...]

THE COURT: Just where it is, that is all.

THE WITNESS: It is in my mind and in the minds of my brothers and sisters. We carry it around with us in the same way that the Sioux Indians carried around the Sioux nation. It does not consist of property or material but, rather, of ideas and certain values, those values being cooperation versus competition, and that we believe in a society…—

SCHULTZ: This doesn't say where Woodstock Nation, whatever that is, is.

WEINGLASS: Your Honor, the witness has identified it as being a state of mind and he has, I think, a right to define that state of mind.

THE COURT: No, we want the place of residence, if he has one, place of doing business, if you have a business, or both if you desire to tell them both. One address will be sufficient. Nothing about philosophy or India, sir. Just where you live, if you have a place to live. Now you said Woodstock. In what state is Woodstock?

THE WITNESS: It is in the state of mind, in the mind of myself and my brothers and sisters. It is a conspiracy. Presently, the nation is held captive, in the penitentiaries of the institutions of a decaying system.

WEINGLASS: Can you tell the Court and jury your present age?

THE WITNESS: My age is 33. I am a child of the 60's.

WEINGLASS: When were you born?

THE WITNESS: Psychologically, 1960.

SCHULTZ: Objection, if the Court please. I move to strike the answer.

WEINGLASS: What is the actual date of your birth?

THE WITNESS: November 30,1936.

WEINGLASS: Between the date of your birth, November 30, 1936, and May 1, 1960, what if anything occurred in your life?

THE WITNESS: Nothing. I believe it is called an American education.

SCHULTZ: Objection.

THE COURT: I sustain the objection.

THE WITNESS: Huh.

WEINGLASS: Abbie, could you tell the Court and jury—

SCHULTZ: His name isn't Abbie. I object to this informality.

WEINGLASS:Can you tell the Court and jury what is your present occupation?

THE WITNESS: I am a cultural revolutionary. Well, I am really a defendant— full-time.

WEINGLASS: What do you mean by the phrase "cultural revolutionary?"?

THE WITNESS: Well, I suppose it is a person who tries to shape and participate in the values, and the mores, the customs and the style of living of new people who eventually become inhabitants of a new nation and a new society through art and poetry, theater, and music.

WEINGLASS: What have you done yourself to participate in that revolution?

THE WITNESS: Well, I have been a rock and roll singer. I am a reporter with the Liberation News Service. I am a poet. I am a filmmaker. I made a movie called "Yippies Tour Chicago or How I Spent My Summer Vacation." Currently, I am negotiating with United Artists and MGM to do a movie in Hollywood. I have written an extensive pamphlet on how to live free in the city of New York. I have written two books, one called Revolution for The Hell of It under the pseudonym Free, and one called, Woodstock Nation.

WEINGLASS: Taking you back to the spring of 1960, approximately May 1, 1960, will you tell the Court and jury where you were?

SCHULTZ: 1960?

THE WITNESS: That's right.

SCHULTZ: Objection.

THE COURT: I sustain the objection.

WEINGLASS: Your Honor, that date has great relevance to the trial. May 1, 1960, was this witness' first public demonstration. I am going to bring him down through Chicago.

THE COURT: Not in my presence, you are not going to bring him down. I sustain the objection to the question.

THE WITNESS: My background has nothing to do with my state of mind?

THE COURT: […] Will you remain quiet while I am making a ruling?I know you have no respect for me.

KUNSTLER: Your Honor, that is totally unwarranted.

SCHULTZ: That is not unwarranted. Mr. Kunstlerhere in the presence of the jury the other day said the Defendant HoPman had changed his name from HoPman because it was the same name, indicating it was the same name. Mr. Kunstler is the one who initiated this, and now he takes great offense that your Honor—

THE COURT: I am mindful of that.

KUNSTLER: I think your remarks call for a motion for a mistrial.

THE COURT: And your motion calls for a denial of the motion. Mr. Weinglass, continue with your examination.

KUNSTLER: You denied my motion? I hadn't even started to argue it.

THE COURT: I don't need any argument on that one.

THE COURT: THE WITNESS turned his back on me while he was on the witness stand.

KUNSTLER: Oh, your Honor, aren't–

SCHULTZ: Mr. Kunstlerwent out of his way, out of his way the other day to explain to the jury that the defendant HoPman had eliminated his last name.

THE COURT: I will have no further argument on your motion. I will ask you to sit down.

THE WITNESS: I was just looking at the pictures of the long -hairs up on the wall….

KUNSTLER: During the year 1967, were you living a totally private life?

SCHULTZ: Objection to the form of the question.

THE WITNESS: I understand that one.

THE COURT: I sustain the objection.

THE WITNESS: I didn't understand the other one, but I understand that question

THE COURT: I understand the objection, I sustain the objection. I relieve you of the obligation of answering.

THE WITNESS: Oh, thanks. Gee.

[...]

Rubin on the occasion described.

WEINGLASS: What was the conversation at that time?

THE WITNESS: Jerry Rubin told me that he had come to New York to be project director of a peace march in Washington that was going to march to the Pentagon in October, October 21. He said that the peace movement suffered from a certain kind of attitude, mainly that it was based solely on the issue of the Vietnam war. He said that the war in Vietnam was not just an accident but a direct by-product of the kind of system, a capitalist system in the country, and that we had to begin to put forth new kinds of values, especially to young people in the country, to make a kind of society in which a Vietnam war would not be possible.

And he felt that these attitudes and values were present in the hippie movement and many of the techniques, the guerrilla theater techniques that had been used and many of these methods of communication would allow for people to participate and become involved in a new kind of democracy. I said that the Pentagon was a five-sided evil symbol in most religions and that it might be possible to approach this from a religious point of view. If we got large numbers of people to surround the Pentagon, we could exorcize it of its evil spirits. So I had agreed at that point to begin working on the exorcism of the Pentagon demonstration.

WEINGLASS: Prior to the date of the demonstration which is October, did you go to the Pentagon?

THE WITNESS: Yes. I went about a week or two before with one of my close brothers, Martin Carey, a poster maker, and we measured the Pentagon, the two of us, to see how many people would fit around it. We only had to do one side because it is just multiplied by five. We got arrested. It's illegal to measure the Pentagon. I didn't know it up to that point.

[Testimony by Defendant Hoffman regarding previous Yippie activity]

THE WITNESS: The money that I got from that job two weeks later I threw it out in the Stock Exchange in New York City on Wall Street, meaning to the other people who were in the money, we wanted to make a statement that we weren’t doing it for the money, and that, in fact, monet should be abolished. We didn’t believe in a society that people had to interact with money and property, but should be on more humanitarian bases. That was what the community was about.

WEINGLASS: Now in exorcising the Pentagon, were there any plans for the building to rise up off the ground?

THE WITNESS: Yes. When we were arrested they asked us what we were doing. We said it was to measure the Pentagon and we wanted a permit to raise it 300 feet in the air, and they said “How about 10?” So we said "“OK"..” And they threw us out of the Pentagon and we went back to New York and had a press conference, told them what it was about. We also introduced a drug called lace, which, when you squirted it at the policemen made them take their clothes off and make love, a very potent drug.

WEINGLASS: Did you mean literally that the building was to rise up 300 feet off the ground?

SCHULTZ: I can't cross-examine about his meaning literally.

THE COURT: I sustain the objection.

SCHULTZ: I would ask Mr. Weinglass please get on with the trial of this case and stop playing around with raising the Pentagon 10 feet or 300 feet off the ground.

THE WITNESS: They are going to bring it up.

SCHULTZ: There are serious issues here and if we could get to them so that he can examine the witness, I can cross-examine the witness, and we can move on.

KUNSTLER: Your Honor, this is not playing around. This is a deadly serious business. The whole issue in this case is language, what is meant by—

SCHULTZ: This is not—

THE COURT: Let Mr. Weinglass defend himself.

WEINGLASS: Your honor, I am glad to see Mr. Schultz finally concedes that things like levitating the Pentagon building, putting LSD in the water, 10,000 people walking nude on Lake Michigan, and a $200,000 bribe attempt are all playing around. I am willing to concede that fact, that it was all playing around, it was a play idea of this witness, and if he is willing to concede it, we can all go home.

THE COURT: I sustain-

WEINGLASS: Because he is treating all these things as deadly serious.

[…]

WEINGLASS: What equipment, if any, did you personally plan to use in the exorcism of the Pentagon?

THE WITNESS: I brought a number of noisemakers—

SCHULTZ: Objection if the Court please.

THE COURT: I sustain the objection.

WEINGLASS: Did you intend that the people who surrounded the Pentagon should do anything of a violent nature whatever to cause the building to rise 300 feet in the air and be exercised of evil spirits?

THE WITNESS: I brought a number of noisemakers-

SCHULTZ: Objection.

THE COURT: I sustain the objection.

WEINGLASS: Could you indicate to the Court and jury whether or not the Pentagon was, in fact, exercised of its evil spirits?

THE WITNESS: Yes, I believe it was…

WEINGLASS: Now, drawing your attention to the first week of December 1967, did you have occasion to meet with

[Testimony by Defendant Hoffman concerning remarks made by Jerry Rubin at a pre-convention meeting]

[Missing question]

Jerry Rubin and the others?

THE WITNESS: Yes.

WEINGLASS: Will you relate to the Court and jury what the conversation was?

THE WITNESS: Yes. We talked about the possibility of having demonstrations at the Democratic a pre-Convention in Chicago, Illinois, that was going to be occurring that August. I am not sure that we knew at that point that it was in Chicago… Wherever it was, we were planning on going. Jerry Rubin, I believe, said that it would be a good idea to call it the Festival of Life in contrast to the

Convention of Death, and to have it in some kind of public area, like a park or something, in Chicago.…

One thing that I was very particular about was that we didn't have any concept of leadership involved. There was a feeling of young people that they didn't want to listen to leaders. We had to create a kind of situation in which people would be allowed to participate and become in a real sense their own leaders.

I think it was then after this that Paul Krassner said the word "YIPPIE," and we felt that that expressed in a kind of slogan and advertising sense the spirit that we wanted to put forth in Chicago, and we adopted that as our password, really…

THE WITNESS: [...] Jerry Rubin, I believe, said that it would be a good idea to call it the Festival of Life in contrast to the Convention of Death, and to have it in some kind of public area, like a park or something, in Chicago [...] At one point, I believe it was Mr. Krassner, when we were talking about the Hippie community, Mr. Rubin asked how come we are called Hippies when we never called each other that, but we look in the papers and read day and night about this thing, and we are called Hippie, and I said that was a myth, that myths are created by media, by people communicating to each other, but it wasn't an accurate description of the phenomenon that was taking place, and the phenomenon had to be experienced itself, and I described to Mr. Rubin my attitude about communication.

December 24, 1969

[Colloquy between Judge Hoffman and Mr. Kunstler]

KUNSTLER:… [I]n the years I have practiced in both federal and state courts, I have never accused, if I can recall at all, either judge or prosecutor of using intimidating tactics on me. This is my 1rst time.

THE COURT: This may come as a surprise to you. In all the years I have sat on both benches, no lawyer, no lawyer has ever charged me with intimidation.

KUNSTLER: Well, your Honor, this is an unusual case. There have been unusual things done and said by many people.

THE COURT: In many respects, it is unusual.

KUNSTLER: Your Honor has for the 1rst time found lawyers in contempt.

THE COURT: I didn’t ask for this case to be assigned to my calendar, and if you think that I recommend it to any other judge for a summer vacation, you are mistaken.

KUNSTLER: I think we all agree on that.

[Colloquy concerning absence of Defendant Hoffman]

WEINGLASS:…I ask the Court to adjourn to Room 406A of Michael Reese [Hospital—ed.] where your Honor could for yourself talk to Abbie and see his condition with doctors present and make a determination right at that point.

THE COURT: You know despite the complaints that have been made by representatives of the defendants about the size of this courtroom, I find it pretty nice. I don’t feel that "I am living in squalor here. I think I will refrain from going to Michael Reese. It is really very depressing, hospitals are depressing, especially in their crowded conditions now. Present my compliments to Mr. Hoffman and thank him for the invitation. Tell him that I decline it with regrets.

December 29, 1969

[Continued direct examination of Defendant Hoffman, Testimony by Hoffman about founding of Yippies]

THE WITNESS: […] Anita said at that time that although “Yippie"” would be understood by our generation, that straight newspapers like the New York Times and the U.S. Government and the courts and everything wouldn't take it seriously unless it had a kind of formal name, so she came up with the name: " of the “Youth International Party."." She said that we could play a lot of jokes on the concept of "party" because everybody would think that we were this huge international conspiracy, but that in actuality we were a party that you had fun at.

Nancy [Kursham] said that fun was an integral ingredient, that people in America, because they were being programmed like IBM cards, weren't having enough fun in life and that if you watched television, the only people that you saw having any fun were people who were buying lousy junk on television commercials, and that this would be a whole new attitude because you would see people, young people, having fun while they were protesting the system, and that young people all around this country and around the world would be turned on for that kind of an attitude. I said that fun was very important, too, that it was a direct rebuttal of the kind of ethics and morals that were being put

forth in the country to keep people working in a rat race which didn't make any sense because in a few years that machines would do all the work anyway, that there was a whole system of values that people were taught to postpone their pleasure, to put all their money in the bank, to buy life insurance, a whole bunch of things that didn't make any sense to our generation at all, and that fun actually was becoming quite subversive.

Jerry said that because of our action at the Stock Exchange in throwing out the money, that within a few weeks the Wall Street brokers there had totally enclosed the whole stock exchange in bulletproof, shatterproof glass, that cost something like $20,000 because they were afraid we'd come back and throw money out again.

He said that for hundreds of years political cartoonists had always pictured corrupt politicians in the guise of a pig, and he said that it would be great theater if we ran a pig for President, and we all took that on as like a great idea and that's more or less…*that was the founding.

[Colloquy concerning admission of "flyer" as evidence]

SCHULTZ: […] The identical sheet is already in evidence. It was put in by the Government. It is marked Government Exhibit C-2. I don't see any reason for there being two of them.

RUBIN: Ours is in color.

SCHULTZ:… The document that identical sheet is before you, D-222 for identification, what is that document?

THE WITNESS: already in evidence. It was our initial call to people to describe what Yippie was about and why we were coming to Chicago.

WEINGLASS: Now, Abbie, could you read the entire document to the jury.

THE WITNESS: It says:

"A STATEMENT FROM YIP!

"Join us in Chicago in August for an international festival of youth, music, and theater. Rise up and abandon the creeping meatball! Come all you rebels, youth spirits, rock minstrels, truth-seekers, peacock-freaks, poets, barricade-jumpers, dancers, lovers and artists!

"It is summer. It is the last week in August, and the NATIONAL DEATH PARTY meets to bless Lyndon Johnson. We are there! There are 50,000 of us dancing in the streets, throbbing with

amplifiers and harmony. We are making love in the parks. We are reading, singing, laughing, printing newspapers, groping, and making a mock convention, and celebrating the birth of FREE AMERICA in our own time.

"Everything will be free. Bring blankets, tents, draft-cards, body-paint, Mr. Leary's Cow, food to share, music, eager skin, and happiness. The threats of LBJ, Mayor Daley, and J. Edgar Freako will not stop us. We are coming! We are coming from all over the world!

"The life of the American spirit is being torn asunder put in by the forces of violence, decay, and the napalm-cancer fiend. We demand the Politics of Ecstasy! We are the delicate spores of the new fierceness that will change America. We will create our own reality, we are Free America! And we will not accept the false theater of the Death ConventionGovernment. It is marked Government Exhibit C-2.

"We will be in Chicago. Begin preparations now! Chicago is yours! Do it!"

"Do it!" was a slogan like "Yippie." We use that a lot and it meant that each person that came should take on the responsibility for being his own leader-that we should, in fact, have a leaderless society.

We shortly thereafter opened an office and people worked in the office on what we call movement salaries, subsistence, thirty dollars a week. We had what the straight world would call a staff and an office although we called it an energy center and regarded ourselves as a tribe or a family.

WEINGLASS: Could you explain to the Court and jury, if you know, how this staff functioned in your office?

THE WITNESS: Well, I would describe it as anarchistic. People would pick up the phone and give information and people from all over the country were now becoming interested and they would ask for more information, whether we were going to get a permit, how the people in Chicago were relating, and we would bring flyers and banners and posters. We would have large general meetings that were open to anybody who wanted to come.

WEINGLASS: How many people would attend these weekly meetings?

THE WITNESS: There were about two to three hundred people there that were attending the meetings. Eventually we had to move into Union Square and hold meetings out in the public. There would be maybe three to five hundred people attending meetings…

WEINGLASS: Where did you go [March 23], if you can recall

THE WITNESS: I flew to Chicago to observe a meeting being sponsored, I believe, by the National Mobilization Committee. It was held at a place called Lake Villa, I believe, about twenty miles outside of Chicago here.

WEINGLASS: Do you recall how you were dressed for that meeting?

THE WITNESS: I was dressed as an Indian. I had gone to Grand Central Station as an Indian and so I just got on a plane and flew as an Indian.

WEINGLASS: Now, when you flew to Chicago, were you alone?

THE WITNESS: No. Present were Jerry, myself, Paul Krassner, and Marshall Bloom, the head of this Liberation News Service.

WEINGLASS: When you arrived at Lake Villa, did you have occasion to meet any of the defendants who are seated here at this table?

THE WITNESS: Yes, I met for the first time Rennie, Tom Hayden— who I had met before, and that's it, you know…

WEINGLASS: Was any decision reached at that meeting about coming to Chicago?

THE WITNESS: I believe that they debated for two days about whether they should come or not to Chicago. They decided to have more meetings. We said we had already made up our minds to come to Chicago and we passed out buttons and posters and said that if they were there, good, it would be a good time.

WEINGLASS: Following the Lake Villa conference, do you recall where you went?

THE WITNESS:I don’t see any reason for there being two of them.

Yes. The next day, March 25, 1 went to the Aragon Ballroom. It was a benefit to raise money again for the Yippies but we had a meeting backstage in one of the dressing rooms with the Chicago Yippies.

WEINGLASS: Do you recall what was discussed?

THE WITNESS: Yes. We drafted a permit application for Mr. Rubin: Ours is in color.

[Speaking to Judge Hoffman]

WEINGLASS: We have attempted to lay a foundation that the Festival of Life was a further conceptualization of guerrilla theater and to give an idea of what their intent was in coming to Chicago to have a festival, you have to go back and see how the Yippie concept developed and grew through these guerrilla theater activities, starting with the money at the stock exchange and coming through this mock raid at Stony Brook, right up through Grand Central Station and Central Park be-in and on to Chicago. It's part and parcel of the whole history and pattern of why and how the Yippies came to Chicago and what they had in mind when they came here, so I think it is essential and critical to an understanding of precisely what's on trial, and what is their intent in coming here.

[...]

WEINGLASS: Directing your attention to the following morning Sunday, May 13, which was Monday morning, March 26, do you recall where you were at that morning?

THE WITNESS: We went to the Parks Department. Jerry was there, Paul, Helen Runningwater, Abe Peck, Reverend John Tuttle— there were a group of about twenty to thirty people, Yippies.

WEINGLASS: Did you meet with anyone at the Park District at that time?

THE WITNESS: is Mother's Day Yes. There were officials from the Parks Department to greet us, they took us into this office, and we presented a permit application.

WEINGLASS: Did you ever receive a reply to this application?

THE WITNESS: Not to my knowledge.

WEINGLASS: After your meeting with the Park District, where, if anywhere, did you go?

THE WITNESS: We held a brief press conference on the lawn in front of the Parks Department, and then we went to see Mayor Daley at City Hall. When we arrived, we were told that the mayor was indisposed and that Deputy Mayor David Stahl would see us.

WEINGLASS: When you met with Deputy Mayor Stahl, what, if anything, occurred?

THE WITNESS: Helen Runningwater presented him with a copy of the permit application that we had submitted to the Parks Department. It was rolled up in the Playmate of the Month that said "To Dick with Love, the Yippies," on it. And we presented it to him and gave him a kiss and put a Yippie button on him, and when he opened it up, the Playmate was just there.

And he was very embarrassed by the whole thing, and he said that we had followed the right procedure, the city would give it proper attention and things like that…

December 29, 1969

WEINGLASS: I direct your attention now to August 5, 1968, and I ask you where you were you on that day.?

THE WITNESS:A. I was in my apartment, St.Marks Place, on the Lower East Side Lincoln Park in New York CityChicago.

WEINGLASS: WhoQ. What was with you?

THE WITNESS: Jerry Rubin was there, Paul Krassner was there, and Nancy. Anita was there; five of us, I believe.

WEINGLASS: Can you describe the conversation which occurred between you and Abe Peck on the telephone?

THE WITNESS: Mr. Peck and other people from Chicago, Yippies— had just returned from a meeting on Monday afternoon with David Stahl and other people from the City administration. He said that he was quite shocked because— they said that they didn't know that we wanted to sleep occurring in the park.

Abe Peck said that it had been known all along that one of the key elements of this Festival was to let us sleep in the park, that it was impossible for people to sleep in hotels since the delegates were staying there and it would only be natural to sleep in the park.

He furthermore told me in his opinion the City was laying down certain threats to them in order to try and get them to withdraw their permit application, and that we should come immediately back to Chicago.

WEINGLASS: After that phone conversation what occurred?

THE WITNESS: We subsequently went to Chicago on August 7 at night.

MR.WEINGLASS: Did a meeting occur on that evening?

THE WITNESS: Yes, in Mayor Daley's press conference room, where he holds his press conferences.

WEINGLASS: Can you relate what occurred at this meeting?

THE WITNESS: It was more or less an informal kind of meeting. Mr. Stahl made clear that these were just exploratory talks, that the mayor didn't have it in his power to grant the permits. We said that that was absurd, that we had been negotiating now for a period of four or five months, that the City was acting like an ostrich, sticking its head in the sand, hoping that we would all go away like it was some bad dream.

I pointed out that it was in the best interests of the City to have us in Lincoln Park ten miles away from the Convention hall. I said we had no intention of marching on the Convention hall, that I didn't particularly think that politics in America could be changed by marches and rallies, that what we were presenting was an alternative lifestyle, and we hoped that people of Chicago would come up, and mingle in Lincoln Park and see what we were about.

I said that the City ought to give us a hundred grand, a hundred thousand dollars to run the Festival. It would be so much in their best interests.

And then I said, "Why don't you just give two hundred grand, and I'll split town?"

It was a very informal meeting. We were just sitting around on metal chairs that they had.

All the that time David Stahl had been insisting that they did not make decisions in the city, that he and the mayor did not make the decisions. We greeted this with a lot of laughter and said that it was generally understood all around the country that Daley was the boss of Chicago and made all the decisions.?

I also said that I considered that our right to assemble in Lincoln Park and to present our society was a right that I was willing to die for, that this was a fundamental human right…

WEINGLASS: On August 14, approximately three days later, in the morning of that day, do you recall where you were?

THE WITNESS: I went to speak to Jay Miller, head of the American Civil Liberties Union. I asked if it was possible for them to work with us on an injunction in the Federal court to sue Mayor Daley and other city officials about the fact that they would not grant us a permit and were denying us our right to freedom of speech and assembly.

WEINGLASS: Now, can you relate to the Court and jury what happened in court when you appeared at 10:00 A.M.?

THE WITNESS: It was heard before Judge Lynch. There was a fantastic amount of guards all over the place. We were searched, made to take off our shirts, empty our pockets—

SCHULTZ: That is totally irrelevant. There happened to be threats at that time, your Honor—

THE WITNESS: He is right. There was what we might call a mini festival of life, a rock concert, I believe. Rev. Tuttle was marrying people. There were marriages taking place and there was a preparation—everybody had pies, apple pies and cherry pies and were going to march to the 18th—there was the beginning of a march to the police station to present the police who were on duty that Sunday, Mother's Day, with pies, apple pies.

SCHULTZ: Do you know that this was done?

THE WITNESS: There were threats. I had twenty that week. About 300 people—

THE COURT: The language, "There were a fantastic amount of guards," may go out and the jury is directed to disregard them.

WEINGLASS: After the…

THE WITNESS: We came before the judge. It was a room similar to this, similar, kind of wall-to wall bourgeois, rugs and neon lights. Federal courts are all the same, I think.

The judge made a couple of references to us in the room, said that our dress was an affront to the Court.

It was pointed out by a lawyer that came by that Judge Lynch was Mayor Daley's ex-law partner. As as result of this conversation we went back into court about twenty, thirty minutes later.

WEINGLASS: Did you speak to the Court?

THE WITNESS: I spoke to Judge Lynch. I said that we were withdrawing our suit, that we had as little faith in the judicial system in this country as we had in the political system. He said, "Be careful, young man. I will find a place for you to sleep." And I thanked him for that, said I had one, and left.

We withdrew our suit. Then we had a press conference downstairs to explain the reasons for that. We explained to the press that we were leaving in our permit application but withdrawing our Federal injunction to sue the city. We said it was a bit futile to end up before a judge, Judge Lynch, who was the ex-law partner of Mayor Daley, that the Federal judges were closely tied in with the Daley and Democratic political machine in Chicago and that we could have little recourse of grievance.

Furthermore, that we suspected that the judge would order us not to go into Lincoln Park at all and that if we did, that we would be in violation of contempt of court, and that it was a setup, and Judge Lynch planned to lynch us in the same way that Stahl was stalling us.

I pointed out that the names in this thing were getting really absurd, similarities. I also read a list of Yippie demands that I had written that morning— sort of Yippie philosophy.

WEINGLASS: Now, will you read for the Court and jury the eighteen demands first, then the postscript.

THE WITNESS: I will read it in the order that I wrote it. "Revolution toward a free society, Yippie, by A. Yippie.

"This is a personal statement. There are no spokesmen for the Yippies. We are all our own leaders. We realize this list of demands is inconsistent. They are not really demands. For people to make demands of the Democratic Party is an exercise in wasted wish fulfillment. If we have a demand, it is simply and emphatically that they, along with their fellow inmates in the Republican Party, cease to exist. We demand a society built along the alternative community in Lincoln Park, a society based on humanitarian cooperation and equality, a society which allows and promotes the creativity present in all people and especially our youth.

"Number one. An immediate end to the war in Vietnam and a restructuring of our foreign policy which totally eliminates aspects of military, economic and cultural imperialism; the withdrawal of all foreign based troops and the abolition of military draft.

"Two. An immediate freedom for Huey Newton of the Black Panthers and all other black people; adoption of the community control concept in our ghetto areas; an end to the cultural and economic domination of minority groups.

"Three. The legalization of marijuana and all other psychedelic drugs; the freeing of all prisoners currently imprisoned on narcotics charges.

"Number four. A prison system based on the concept of rehabilitation rather than punishment.

"Five. A judicial system which works towards the abolition of all laws related to crimes without victims; that is, retention only of laws relating to crimes in which there is an unwilling injured party: i.e. murder, rape, or assault.

"Six. The total disarmament of all the people beginning with the police. This includes not only guns but such brutal vices as tear gas, Mace, electric prods, blackjacks, billy clubs, and the like.

"Seven. The abolition of money, the abolition of pay housing, pay media, pay transportation, pay food, pay education. pay clothing, pay medical health, and pay toilets.

"Eight. A society which works towards and actively promotes the concept of full unemployment, a society in which people are free from the drudgery of work, adoption of the concept 'Let the machines do it.'

"Number ten. A program of ecological development that would provide incentives for the decentralization of crowded cities and encourage rural living.

"Eleven. A program which provides not only free birth control information and devices, but also abortions when desired.

"Twelve. A restructured educational system which provides a student power to determine his course of study, student participation in over-all policy planning; an educational system which breaks down its barriers between school and community; a system which uses the surrounding community as a classroom so that students may learn directly the problems of the people.

"Number thirteen. The open and free use of the media; a program which actively supports and promotes cable television as a method of increasing the selection of channels available to the viewer.

"Fourteen. An end to all censorship. We are sick of a society that has no hesitation about showing people committing violence and refuses to show a couple fucking.

"Fifteen. We believe that people should fuck all the time, any time, wherever they wish. This is not a programmed demand but a simple recognition of the reality around its.

"Sixteen. A political system which is more streamlined and responsive to the needs of all the people regardless of age, sex, or race; perhaps a national referendum system conducted via television or a telephone voting system; perhaps a decentralization of -power and authority with many varied tribal groups, groups in which people exist in a state of basic trust and are free to choose their tribe.

"Seventeen. A program that encourages and promotes the arts. However, we feel that if the free society we envision were to be sought for and achieved, all of us would actualize the creativity within us; in a very real sense we would have a society in which every man would be an artist.'

And eighteen was left blank for anybody to fill in what they wanted. "It was for these reasons that we had come to Chicago, it was for these reasons that many of us may fight and die here. We recognize this as the vision of the founders of this nation. We recognize that we are America; we recognize that we are free men. The present-day politicians and their armies of automatons have selfishly robbed us of our birthright. The evilness they stand for will go unchallenged no longer. Political pigs, your days are numbered. We are the second American Revolution. We shall win.

"YIPPIE."

WEINGLASS: When you used the words "fight and die here," in what context were you using those words?

THE WITNESS: It is a metaphor. That means that we felt strongly about our right to assemble in the park and that people should be willing to take risks for it. It doesn't spell it out because people were capable of fighting in their own way and making their own decisions and We never would tell anyone specifically that they should fight, fistfight.

WEINGLASS: Did you during the week of the Convention and the period of time immediately before the Convention tell any person singly or in groups that they should fight in the park?

SCHULTZ: Objection.

THE COURT: I sustain the objection.

WEINGLASS: Directing your attention to the morning of August 19, 1968, did you attend a meeting on that day?

THE WITNESS: Yes. I went to the office of the Mobilization Committee.

WEINGLASS: Was there a discussion?

THE WITNESS: I never stayed long at these meetings. I just went and made an announcement and maybe stayed ten or fifteen minutes…

WEINGLASS: Was there a course given in snake dancing on that day also?

THE WITNESS: Yes. Yes. People would have a pole and there would be about six people, and then about six people behind them, holding them around the waist, four or five lines of these people with men, women, and kids maybe eight years old in on this whole thing, and people would bounce from one foot to the other and yell "Wash oi, Wash oi," which is kind of Japanese for "Yippie," I guess.

And they would just march up and down the park like this, mostly laughing and giggling, because the newsmen were taking this quite seriously, and then at a certain point everybody would turn in and sort of just collapse and fall on the ground and laugh. I believe we lost about four or five Yippies during that great training.

The exciting part was when the police arrested two army intelligence officers in the trees.

WEINGLASS: During the course of that day when you were in the park, did you notice that Marching to the police were hanging any signs in the park?station on Mother's Day with pies is irrelevant.

THE WITNESS: Late in the day, maybe four or five, I became aware that there were police nailing signs on the trees that said "11:00 p.m. curfew," maybe a few other words, but that was the gist of the signs.

WEINGLASS: Directing your attention to Sunday, May 13, which is Mother's Day, 1968, where were you on that day?

THE WITNESS: I was in Lincoln Park in Chicago.

WEINGLASS: What was occurring in the park at that time?

THE WITNESS: There was what we might call a mini festival of life, a rock concert, I believe. Rev. Tuttle was marrying people. There were marriages taking place and there was a preparation—everybody had pies, apple pies and cherry pies and were going to march to the 18th—there was the beginning of a march to the police station to present the police who were on duty that Sunday, Mother's Day, with pies, apple pies.

WEINGLASS: Do you know that this was done?

THE WITNESS: There were about 300 people—

SCHULTZ: Objection. Marching to the police station on Mother's Day with pies is irrelevant.

WEINGLASS: It is irrelevant by Government standards. If they went to the police station carrying bombs, they would say that was relevant.

DECEMBER 30, 1969

[Continued direct examination of Defendant Hoffman]

THE COURT: Bring in the jury, please, Mr. Marshal. Defendant Hoffman: Wait a second. We have a matter—

THE COURT: Who was that waving and talking at me, one of the lawyers?

SCHULTZ: He is acting as his own lawyer, I think, your Honor. Abbie Hoffman. He is doing a pretty good job of it. He shows Mr. Weinglass up.

Defendant Hoffman: Wait until you get your chance.

[...]

WEINGLASS: Could you relate to the Court and to the jury the substance of your conversation with David Stahl [Deputy Mayor of Chicago—ed.] at that time.

THE WITNESS: Well, I said, "Hi, Dave. How's it going?" I said, "Your police got to be the dumbest—the dumbest and the most brutal in the country," that the decision to drive people out of the park in order to protect the city was about the dumbest military tactic since the Trojans 1rst let the Trojan horse inside the gate and that there was nothing that compared with that stupidity. I again pleaded with him to let people stay in the park the following night. I said that there were more people coming to Chicago. There would be more people coming Monday, Tuesday, and subsequently Wednesday night, and that they should be allowed to sleep, that there was no place to sleep, that the hotels are all booked up, that people were getting thrown out of hotels, that they were getting thrown out of restaurants, and that he ought to intercede with the police department. I told him that the city officials, in particular his boss, Daley, were totally out of their minds, that I had read in the paper the day before that they had 2,000 troops surrounding the reservoirs in order to protect against the Yippie plot to dump LSD in the drinking water. I said that there wasn't a kid in the country, never mind a Yippie, who thought that such a thing could even be done, that why didn't he check with all the scientists at the University of Chicago—he owned them all. I said that it couldn't in fact be done.

He said that he knew it couldn't be done, but they weren't taking any chances anyway. I thought it was about the weirdest thing I had ever heard. I said, "Well, it was good advice, that he could withdraw those troops, that that couldn't be done, but maybe Mayor Daley was taking a little acid," and I told him—I told him that he could get in touch with me through the Seed office but that really if he just wanted to contact me, he knew where to reach me any minute since there were two policemen and sometimes four from the Chicago Intelligence office following me all day…

WEINGLASS: Could you relate to the Court and to the end of Convention week, did you ever discuss jury the substance of your conversation with any people the question of staying in the park after the curfew hours?

THE WITNESS: At a meeting on August 24, that subject came up, and there was lengthy discussion…

WEINGLASS: Now, did you hear Jerry Rubin speak at that meeting?

THE WITNESS: Jerry said that the park wasn't worth fighting for; that we should leave at the eleven p.m. curfew. He said that we should put out a statement to that effect.

WEINGLASS: And did you speak at that meeting?

THE WITNESS: I reported on a meeting that morning with Chief Lynskey. I had asked the Chicago cops who were tailing me to take me to Chief Lynskey who was in charge of the area of Lincoln Park. I went up to the chief and said, "Well, are you going to let us have the Festival?"

He said "No festival under any circumstances. If anybody breaks one city ordinance in that park, we clear the whole park."

He said, "You do any one thing wrong and I will arrest you on sight."

He said, "Why don't you try to kick me in the shins right now?"

And I said NBC wasn't there. And he said, "Well, at least the kid's honest," and stuff like that.

Then I gave a speech to the police that were all assembled and I said, "Have a good time." I said, "The National Guard's coming in, they're probably going to whip you guys up, and I hope your walkie-talkies work better than ours," and stuff like that. And I just walked out.

Then we discussed what we were going to do. I said it was my feeling that Chicago was in a total state of anarchy as far as the police mentality worked. I said that we were going to have to fight for every single thing, we were going to have to fight for the electricity, we were going to have to fight to have the stage come in, we were going to have to fight for every rock musician to play, that the whole week was going to be like that.

I said that we should proceed with the festival as planned, we should try to do everything that we had come to Chicago to do, even though the police and the city officials were standing in our way.

WEINGLASS: During the course of this Saturday and prior to this meeting, did you have occasion to meet Irv Bock in the park?

THE WITNESS: Oh, I met Irv Bock Saturday afternoon during some of the marshal training. Marshal training is a difficult phrase to use for Yippies. We always have a reluctance to marshalls because they are telling people what to do and we were more anarchistic than that, more leaderless.

I sort of bumped into Irv Bock. I showed him a— it wasn't a gas mask but it was a thing with two plastic eyes and a little piece of leather that I got. I purchased in an army-navy store for about nineteen cents, and I said that these would be good protection against Mace.

He started running down to me all this complicated military jargon and I looked at him and said, "Irv, you're a cop, ain't you?"

He sort of smiled and said, "No, I'm not."

"Come on," I said, "We don't grow peaceniks that big. We are all quarterbacks. You've got to be a cop."

I said, "Show me your wallet."

So he said, "No, no. Don't you trust me?"

So I said, "Irv," I said, "last night there was a guy running around my house with a pistol trying to kill me," that I had twenty threats that week, and at that point I didn't trust Jerry Rubin…

WEINGLASS: Directing your attention to approximately two o'clock in the morning, which would now be Monday morning, do you recall what you were doing?

THE WITNESS: I made a telephone call to David Stahl, [Deputy Mayor of Chicago at his home. I had his home number—ed.] at that time.

Well, I said, "“Hi, Dave. How'sHow’s it going? ?” I said, “Your police got to be the dumbest—the dumbest and the most brutal in the country," I said.

That the decision to drive people out of the park in order to protect the city was about the dumbest military tactic since the Trojans 1rst let the Trojan horse inside the gate and that there was nothing to be that compared with that stupidity. I again pleaded with him to let people stay in the park the following night. "I said that there were more people coming to Chicago. There will would be more people coming Monday, Tuesday, and subsequently Wednesday night," I said, ", and that they should

be allowed to sleep." I said, that there was no place to sleep, that the hotels are all booked up, that people were getting thrown out of hotels, that they were getting thrown out of restaurants, and that he ought to intercede with the Police Department.police department. I said to told him that the City City officials, in particular his boss, Daley, were totally out of their minds.

I said, "I had read in the paper the day before that they had 2,000 troops surrounding the reservoirs in order to protect against the Yippie plot to dump LSD in the drinking water. There isn'tI said that there wasn't a kid in the country," I said, ", never mind a Yippie, who thinks thought that such a thing could even be done."

I told him to, that why didn't he check with all the meetings scientists at the University of Chicago—he owned them all. I said that it couldn't in fact be done.

He said that he knew it couldn't be done, but they weren't taking any chances anyway…

WEINGLASS: Can you tell.

THE WITNESS: I thought it was about the Court Weirdest thing I had ever heard. I said, "Well, it was good advice, that he could withdraw those troops, that that couldn't be done, but maybe Mayor Daley was taking a little acid," and jury where you were I told him—I told him that he could get in Lincoln Park at approximately 11:30 Monday night?

THE WITNESS: I was walking touch with me through the barricade, my wife Anita Seed office but that really if he just wanted to contact me, he knew where to reach me any minute since there were two policemen and I.sometimes four from the Chicago Intelligence office following me all day…

[...]

WEINGLASS: Did you see Allen Ginsberg at the barricade speak for an hour, Abbie, on this speech?

THE WITNESS: Yes. He was kneeling.

There was a crowd of people around. He was playing that instrument that he plays and people were chanting.

There was a police car that would come by and I believe it was making announcements and people would yell at the police car, you know, "Beat it. Get out. The parks belong to the people. Oink Oink. Pig Pig. Pigs are coming. Peace Now."

People were waving flags. People were running around being scared and people were running around sort of joyous. I mean, it was strange, different emotions. It was very dark in that place.

SCHULTZ: THE WITNESS is not answering the question any more. He is giving another essay. I object.

WEINGLASS: When the police finally came to the barricade, from what direction did they come?

THE WITNESS: They came in through the zoo. They proceeded to climb and immediately started to club people. They were throwing parts of the barricade, trashcans, at people.

WEINGLASS: Now, at the time the police came to the barricade what did you do?

THE WITNESS: Well, I was coughing and spitting because there was tear gas totally flooding the air, cannisters were exploding all around me— I moved with the people out this way, out of the park trying to duck, picking up people that were being clubbed, getting off the ground myself a few times.

The police were just coming through in this wedge, solid wedge, clubbing people right and left, and I tried to get out of the park.

WEINGLASS: Directing your attention to approximately six o'clock the following morning, do you recall where you were?

THE WITNESS: I got in the car of the police that were following me and asked them to take me to the beach— the beach part of Lincoln Park.

WEINGLASS: What was occurring when you got there?

THE WITNESS: Allen Ginsberg and about— oh 150-200 people were kneeling, most of the people in lotus position which is a position with their legs crossed like this— chanting and praying and meditating.

There were five or six police cars on the boardwalk right in back, and there were police surrounding the group. Dawn was breaking. It was very cold, very chilly. People had a number of blankets wrapped around them, sitting in a circle.

I went and sat next to Allen and chanted and prayed for about an hour. Then I talked to the group. People would give talks about their feelings of what was going on in Chicago. I said, "I am very sad about what has happened in Chicago.

"What is going on here is very beautiful, but it won't be in the evening news that night.

"The American mass media is a glutton for violence, and it would be only shots of what was happening in the streets of Chicago."

I said, "America can't be changed by people sitting and praying, and this is an unfortunate reality that we have to face."

I said that we were a community that had to learn how to survive, that we had seen what had happened the last few nights in Lincoln Park. We had seen the destruction of the Festival.

I said, "I will never again tell people to sit quietly and pray for change."...

WEINGLASS: Now, directing your attention to approximately 6:00 A.M. the following morning, Wednesday, August 28, do you recall what you were doing?

THE WITNESS: I went to eat. I went with Paul Krassner, Beverly Baskinger, and Anita and four police officers— Paul also had two Chicago police officers following him, as well as the two that were following me. We walked and the four of them would drive along behind us.

WEINGLASS: Could you describe for the jury and the Court what you were wearing at that time?

THE WITNESS: Well, I had cowboy boots, and brown pants and a shirt, and I had a grey felt ranger cowboy type hat down over my eyes, like this.

MR.WEINGLASS: What, if anything occurred while you were sitting there having breakfast?

THE WITNESS: Well, two policemen came in and said, "We have orders to arrest you. You have something under your hat."

So I asked them if they had a search warrant and I said 'Did you check it out with Commander Braasch? Me and him got an agreement" — and they went to check it out with him, while we were eating breakfast.

WEINGLASS: After a period of time, did they come back?

THE WITNESS: They came back with more police officers— there were about four or five patrol cars surrounding the restaurant. The Red Squad cops who had been following us came in the restaurant, four or five police, and they said, "We checked. Now will you take off your hat?" They were stern, more serious about it.

WEINGLASS: What did you do?

THE WITNESS: Well, I lifted up the hat and I went "Bang! Bang!"

SCHULTZ: It isn't Abbie, it is a 33-year-old man. His name is Mr. Hoffman.

THE COURT: Oh, yes, but that has been gone into. If a lawyer persists in that, there is nothing very much I can do about it at this time.

[...]

WEINGLASS: Did you speak for an hour, Abbie, on this speech?

SCHULTZ: It isn't Abbie, it is a 33-year-old man. His name is Mr. Hoffman.

THE COURT: Oh, yes, but that has been gone into. If a lawyer persists in that, there is nothing very much I can do about it at this time.

WEINGLASS: Could you relate to the Court as much as you can of your speech?

THE WITNESS: I think I can, Len.

THE COURT: What did he call you?

THE WITNESS: Len.

WEINGLASS: Len. It is the appropriate name.

[Defendant Hoffman testifying about his arrest]

THE WITNESS: They grabbed me by the jacket and pulled me across the bacon and eggs and Anita over the table, threw me on the floor and out the door and threw me against the car, and they handcuffed me. I was just eating the bacon and going, "Oink, oink." I was just eating the bacon and going "Oink Oink!"

WEINGLASS: Did they tell you why you were being arrested?

THE WITNESS: They said they arrested me because I had the word "fuck" on my forehead.

WEINGLASS: Now, will you explain—

THE WITNESS: They called it an "obscenity," they said it was an "obscenity."

WEINGLASS: Can you explain to the court and the jury how that word got on your forehead that day.

THE WITNESS: I had it put on with this magic marker before we left the house. They called it an "obscenity."

WEINGLASS: And why did you do that?

THE WITNESS: Well, there were a couple of reasons. One was that I was tired of seeing my picture in the paper and having newsmen come around, and I know if you got that word on your forehead, they aren't going to print your picture in the paper. Secondly, and secondly, it sort of summed up my attitude about the whole thing—what was going on in Chicago. It was a four-letter word for which—I liked that four-letter word. I thought it was kind of holy, actually.

[Testimony describing a speech in Grant Park]

WEINGLASS: Do you recall what you said to the group that four letter word—had gathered there at that time?

THE WITNESS: I described to them the experience that had happened to me in the jails of Chicago. I said that there were young people in the jails being beaten up, that they weren't being allowed to have their lawyers. I said it was typical of what took place in jails all around the country. I described the experience in the courtroom and the attitude of the Judge and I said it was particularly common among judges in this country. I said that Lenny Bruce had once said, "In the halls of justice the only justice is in the halls." And I said that the judicial system was as corrupt as the political system.

[THE COURT answering Mr. Weinglass]

THE COURT:… I have ruled on that, Mr. Weinramer—Weinglass, rather.

[...]

WEINGLASS: Prior to coming to Chicago, from April 12, 1968, on to the week of the Convention, did you enter into an agreement with David Dellinger, John Froines, Tom Hayden, Jerry Rubin, Lee Weiner, or Rennie Davis, to come to the city of Chicago for the purpose of encouraging and promoting violence during the Convention weekWeek?

THE WITNESS: An agreement?

WEINGLASS: Yes.

THE WITNESS: We couldn't agree on lunch.

WEINGLASS: I have no further questions.

Cross-examination of Defendant Abbie Hoffman by Mr.Schultz

[...]

WEINGLASS: I will have fourteen copies of the book for the jury in the morning, and they can read the entire book. We are not ashamed of a word in this book.

THE COURT: No, you will not. You may have fourteen copies, but they will not go to the jury.

WEINGLASS: Mr. Schultz is indicating to the jury that we are afraid of this book, and—

THE COURT: If you will listen to me, sir I am the one who determines what the jury sees. Those books are not in evidence.

WEINGLASS: Then you should admonish the U.S. Attorney not to say that we are afraid of this book.

THE COURT: I will admonish the jury—the United States Attorney—

THE WITNESS: Wait until you see the movie.

THE COURT: if it is required that he be admonished.

THE WITNESS: Wait until you see the movie.

THE COURT: And you be quiet.

THE WITNESS: Well—the movie's going to be better.

[...]

SCHULTZ: Hoffman, the Guards and the troops were trying to keep the people from entering into the Pentagon for two days, isn't that right?

THE WITNESS: I assume that they were there to guard the Pentagon from rising in the air possibly. I mean, who knows what they are there for? Were you there?

You probably watched it on television and got a different impression of what was happening. That is one aspect of myth-making— you can envisualize hordes and hordes of people when in reality that was not what happened.

SCHULTZ: Did you see some people urinate on the Pentagon?

THE WITNESS: On the Pentagon itself?

SCHULTZ: Or at the Pentagon?

THE WITNESS: In that general area in Washington?

SCHULTZ: Yes.

THE WITNESS: There were in all over 100,000 people. People that is, people have that biological habit, you know.

SCHULTZ: And did you?

THE WITNESS: Yes.

SCHULTZ: Did you symbolically—

THE WITNESS: Did I go and look?

SCHULTZ: Did you symbolically and did you—did you symbolically urinate on the Pentagon, Mr. Hoffman?

THE WITNESS: I symbolically urinate on the Pentagon?

SCHULTZ: Yes.

THE WITNESS: Nearby yes, in the bushes, there, maybe 3,000 feet away from the Pentagon. I didn't Yes. I didn't get that close. Pee on the walls of the Pentagon? You are getting to be out of sight, actually. You think there is a law against it?

SCHULTZ: Are you done, Mr. Hoffman?

THE WITNESS: I am done when you are.

SCHULTZ: Did you ever on a prior occasion state that a sense of integration possesses you and comes from pissing on the Pentagon?

THE WITNESS: I said from combining political attitudes with biological necessity, there is a sense of integration, yes I think I said it that way, not the way you said it, but—

SCHULTZ: You had a good time at the Pentagon, didn't you, Mr. Hoffman?

THE WITNESS: Yes, I did. I am having a good time now.

Could I—I feel that biological necessity now. Could I be excused for a slight recess?

THE COURT: We will take a brief recess, ladies and gentlemen of the jury. Ladies and gentlemen of the jury, we will take a brief recess.

THE WITNESS: Just a brief—

THE COURT: We will take a brief recess with my usual orders. THE COURT will be in recess for a brief period.

[Brief recess]

[...]

SCHULTZ: At this meeting on the evening of August 7, you told Mr. Stahl that you were going to have nude-ins in your liberated zone, didn't you?

THE WITNESS: A nude-in? I don't believe I would use that phrase, no.

SCHULTZ: You told him you were going to have public fornication?

THE WITNESS: I might have told him that ten thousand people were going to walk naked on the waters of Lake Michigan, something like that.

SCHULTZ: No, you told him specifically, didn't you, Mr. Hoffman, that you were going to have nude-ins, didn't you?

THE WITNESS: No. I don't—No, I don't recall using that phrase or that I ever used it. I do now. It's—I don't think it's very poetic, frankly.

SCHULTZ: You told him, did you not, Mr. Hoffman, that in your liberated zone you would have—

THE WITNESS: I'm not even sure what it is, a nude-in.

SCHULTZ: Public fornication?

THE WITNESS: If it means ten thousand people, naked people, walking on Lake Michigan, yes.

KUNSTLER: I object to this because Mr. Schultz is acting like a dirty old man.

SCHULTZ: We are not going into dirty old men. If they wanted to have 500,000 people in the park and are telling the city officials, they are going to have nude-ins and public fornication, the city officials react to that, and I am establishing through this witness that that's what he did, that and many more things.

THE COURT: There is no objection. Do you object?

KUNSTLER: I am just remarking, your Honor, that a young man can be a dirty old man.

THE WITNESS: I don't mind talking—

THE COURT: I could make an observation. I have seen some exhibits here that are not exactly exemplary documents.

KUNSTLER: But they are, from your point of view, your Honor— making a dirty word of something that can be beautiful and lovely, and that's what's being done.

THE COURT: I don't know that they have been written by the United States Attorney.

SCHULTZ: We are not litigating here, your Honor, whether sexual intercourse is beautiful or not. We are litigating whether or not the city could permit tens of thousands of people to come in and do in their parks what this man said they were going to do.

THE COURT: Oh, you needn't argue that.

SCHULTZ: Yes, your Honor.

KUNSTLER: The city permitted them to do it in trees, your Honor, as I recall some of the testimony. The policeman was right under the tree.

THE COURT: The last observation of Mr. Kunstlermay be stricken from the record.

[...]

[Testimony describing a speech in Grant Park]

Mr. Shultz: In getting people to Chicago, you created your Yippie myth, isn't that right? And part of your myth was "We'll burn Chicago to the ground," isn't that right?

THE WITNESS: It was part of the myth that there were trainloads of dynamite headed for Chicago, it was part of the myth that they were going to form white vigilante groups and round up demonstrators. All these things were part of the myth. A myth is a process of telling stories, most of which ain't true.

SCHULTZ: Oh, you needn't argue that. Mr. Hoffman— Your Honor, Mr. Davis is having a very fine time here whispering at me. He has been doing it for the last twenty minutes. He moved up here when I started the examination so he could whisper in my ear. I would ask Davis, if he cannot be quiet, to move to another part of the table so that he will stop distracting me.

THE COURT: Try not to speak too loudly, Davis.

DAVIS: Yes, sir your Honor.

THE COURT: Go ahead.

THE WITNESS: Go ahead, Dick.

SCHULTZ: Didn't you state,

KUNSTLER: The city permitted them to do it in trees, your Honor, as I recall some of the testimony. The policeman was right under the tree.

THE COURT: The last observation of Mr. Kunstler may be stricken from the record.

[Missing edited text]

SCHULTZ: Hoffman, that part of the myth that was being created to get people to come to Chicago was that "We will fuck on the beaches"?

THE WITNESS: Yes, me and Marshall McLuhan. Half of that quote was from Marshall McLuhan.

SCHULTZ: "And there will be acid for all"— that was another one of your Yippie myths, isn't that right?

THE WITNESS: That was well known.

SCHULTZ: By the way, was there any acid in Lincoln Park in Chicago?

THE WITNESS: In the reservoir, in the lake?

SCHULTZ: No, among the people.

THE WITNESS: Among the people was there LSD? Well, there might have been, I don't know. It is colorless, odorless, and tasteless. One can never tell….

SCHULTZ: What about the honey, was there anything special about any honey in Lincoln Park?

THE WITNESS: There was honey, there was—I was told there was honey, that there was—I was getting stoned eating brownies. Honey, yes. Lots of people were—

SCHULTZ: There was LSD to your knowledge in both the honey and in some brownies? Isn't that right?

THE WITNESS: I would have to be a chemist to know that for a fact. It is colorless, odorless, and tasteless.

SCHULTZ: Didn't you state on a prior occasion that Ed Sanders passed out from too much honey?

THE WITNESS: Yes. People passed out.

THE COURT: You have answered the question.

THE WITNESS: Yes. Passed out from honey? Sure. Is that illegal?

SCHULTZ: And that a man named Spade passed out on honey?

THE WITNESS: Yes. I made up that name. Frankie Spade, wasn't it? It must have been strong honey.

THE COURT: The last observation of the witness may go out and the jury is directed to disregard it and the witness is directed again not to make gratuitous observations.

[...]

SCHULTZ: It was part of your myth in getting people to Chicago, Mr. Hoffman, that it was announced that the Yippies would block traffic, isn't that right?

THE WITNESS: That I said that people would block traffic?

SCHULTZ: No, not what you said but that it was part of the Yippie myth created early in 1968, a statement that they would block traffic?

THE WITNESS: Yes, I believe I heard it from Sheri Joseph Woods.

[...]

SCHULTZ: Now, prior to the beginning of the convention, Mr. Hoffman, that is, on August 22 at about 1 in the morning, do you recall having coffee with some police officers? I think August 22 was the day that you later went into court before Judge Lynch, so that it would be that morning, if that helps you.

THE WITNESS: With the policemen that were trailing me from the Chicago Red Squad? Yes. They bought me breakfast every morning and drove me around. It could have been—yes. Do you want to go further and then maybe I can recall what was said?

SCHULTZ: Do you recall while having coffee with—

THE WITNESS: I don't drink coffee so—I haven't drank coffee for three years, so—

SCHULTZ: While having breakfast—

THE WITNESS: It is one of the drugs I refrain from using.

[...]

SCHULTZ: It was your Yippie myth, Mr. Hoffman, was it not, that people will among other things in Chicago smoke dope and fuck and fight cops?

THE WITNESS: Yes. I wrote that as a prediction. So did Norman Mailer, I might add.

December 31, 1969

[Continued cross-examination of Defendant Hoffman by Mr. Schultz]

SCHULTZ: In fact, you thought it was a great boon to you that your case [requesting a permit to use city park—ed.] had been assigned to Judge Lynch because you could make a lot of hay out of it, isn't that right, Mr. Hoffman?

THE WITNESS: No, I had learned at that time that they had turned down the McCarthy people's request for a permit, and I thought if they weren't going to get it, we sure as hell weren't, either, and that was one of the decisions.

THE COURT: Mr. Witness, we don't allow profanity from the witness stand.

THE WITNESS: Well, I wouldn't want—all right.

[...]

SCHULTZ: When did you prepare, Mr. Hoffman, your—

THE COURT: And I don't like being laughed at by the witness—by a witness in this court, sir.

THE WITNESS: I know that laughing is a crime. I already—

THE COURT: I direct you not to laugh at an observation by the Court. I don't laugh at you.

THE WITNESS: Are you sure?

THE COURT: I should?

THE WITNESS: I said, "Are you sure?"

THE COURT: I haven't laughed at you during all of the many weeks and months of this trial.

THE WITNESS: Well—

SCHULTZ: that what you were trying to do was to create a situation where the State and the United States Government would have to bring in the Army and bring in the National Guard during the Convention in order to protect the delegates so that it would appear that the Convention had to be held under military conditions, isn't that a fact, Mr. Hoffman?

THE WITNESS: You can do that with a yo-yo in this country. It's quite easy. You can see just from this courtroom. Look at all the troops around—

SCHULTZ: Your Honor, may the answer be stricken?

THE COURT: Yes, it may go out…

SCHULTZ: Mr. Hoffman, in the afternoon on that Thursday you participated; in a march, and then you laid down in front of an armored personnel carrier at the end of that march, at 16th or 19th on Michigan, laid down on the street?

THE WITNESS: Was that what it was? I thought it was a tank. It looked like a tank. Do you want me to show you how I did it? Laid down in front of the tank?

SCHULTZ: All right, Mr. Hoffman. Did you make any gestures of any sort?

THE WITNESS: When I was laying down? See. I went like that, lying down in front of the tank. I had seen Czechoslovakian students do it to Russian tanks.

SCHULTZ: And then you saw a Chicago police officer who appeared to be in high command because of all the things he had on his shoulders come over to the group and start leading them back toward Grant Park, didn't you?

THE WITNESS: He came and then people left— and went back to the park, yes.

SCHULTZ: Did you say to anybody, "Well, you see that cat?", pointing to Deputy Superintendent Rochford. "When we get to the top of the hill, if the cat doesn't talk right, we're going to hold him there, and then we can do whatever we want and the police won't bother us." Did you say that to anybody out there, Mr. Hoffman?

WEINGLASS: That's the testimony of the intelligence officer, the intelligence police officer of the Chicago Police Department.

THE WITNESS: I asked the Chicago police officers to help me kidnap Deputy Superintendent Rochford? That's pretty weird.

SCHULTZ: Isn't it a fact that you announced publicly a plan to kidnap the head pig---

THE WITNESS: Cheese, wasn't it?

SCHULTZ: —and then snuff him—

THE WITNESS: I thought it was "cheese."

SCHULTZ: —and then snuff him if other policemen touched you? Isn't that a fact, sir?

THE WITNESS: I do not believe that I used the reference of "pig" to any policemen in Chicago including some of the top cheeses. I did not use it during that week…

SCHULTZ: You and Albert, Mr. Hoffman, were united in Chicago in your determination to smash the system by using any means at your disposal, isn't that right?

THE WITNESS: Did I write that?

SCHULTZ: No, did you have that thought?

THE WITNESS: That thought? Is a thought like a dream? If I dreamed to smash the system, that's a thought. Yes, I had that thought.

THE COURT: Mr. Witness, you may not interrogate the lawyer who is examining you.

THE WITNESS: Judge, you have always told people to describe what they see or what they hear. I'm the only one that has to describe what I think.

WEINGLASS: I object to any reference to what a person thought or his being tried for what he thought. He may be tried for his intent.

THE COURT: Overrule the objection.

THE WITNESS: Well, I had a lot of dreams at night. One of the dreams might have been that me and Stew were united.

SCHULTZ: May I proceed, your Honor?

THE COURT: Yes, you may.

KUNSTLER: I am not sure, your Honor, "hell" is classified as profanity, and I think from what has been circulated in this courtroom it's hardly profane language.

THE COURT: Oh, I will concede that it is a lesser degree of—

KUNSTLER: I am not even sure it is classified as profanity.

THE COURT: You don't think so.

KUNSTLER: I don't think—

THE COURT: Well, probably not among your clients, but I—

KUNSTLER: I take it among your friends, too, Judge, and I would say you have used it and everyone else has used it.

THE COURT: I don't allow a witness to testify that way on the witness stand, if you don't mind, sir.

KUNSTLER: I object to the dictionary—

THE COURT: We strive here to conduct this Court in the traditional—

KUNSTLER: You say my clients are habituated to using "hell," you know, which is a categorization of my clients. My clients use lots of words, and your friends use lots of words—

THE COURT: I don't think you know any of my friends.

KUNSTLER: You'd be surprised, your Honor.

THE COURT: Please don't—

KUNSTLER: The father of one of our staff men is a close friend of yours.

THE COURT: If they know you, they haven't told me about it.

SCHULTZ: Your Honor, may we proceed?

THE COURT: Yes.

THE WITNESS: I know your chauffeur.

[...]

SCHULTZ: Mr. Hoffman, when did you prepare your original—I'll wait until you're finished laughing, Mr. Hoffman.

THE WITNESS: I was just laughing at your profanity.

SCHULTZ: Are you ready, Mr. Hoffman?

THE WITNESS: Yes, ready.

SCHULTZ: Are you finished, Mr. Hoffman?

THE WITNESS: Yes, I'm finished.

SCHULTZ: Do you want to do any headstands for us?

THE WITNESS: No, but I think I might like to go to the bathroom, if I could.

SCHULTZ: Your Honor, we only have about ten more minutes. I'd like very much to get this finished.

THE WITNESS: Ten more minutes?

SCHULTZ: Can you wait ten more minutes, Mr. Hoffman?

SCHULTZ: Your Honor, can we go for ten more minutes?

THE WITNESS: Yes. Yes, I'll wait.

[Brief recess]

SCHULTZ: Did you hear the question?

THE WITNESS: No, sorry. I was thinking about the last one.

THE COURT: Read it to the witness.

WEINGLASS: Your Honor, he is indicating he would like to answer the question before. Mr. Schultz has expressed a request that he do a headstand, and I think he should have, in answer, an opportunity to comply with that request if that is what the witness wants to do.

THE COURT: I don't think that was put in the form of a question.

SCHULTZ: I didn't intend it to be.

WEINGLASS: He is stating—

SCHULTZ: He is clowning for us, and I thought maybe in his clowning he would want to do a headstand or a cartwheel or something.

THE COURT: You don't want to do that, do you. You don't, do you?

THE WITNESS: I want to comply with Mr. Schultz' request, if he wants to see such a thing.

THE COURT: You want to answer the question. All right. He says no, in effect.

THE WITNESS: I think it might start a riot.

THE COURT: That question has been answered.

[...]

SCHULTZ: Mr. Hoffman—

SCHULTZ: Well, maybe we ought to take a break now. Mr. Hoffman is uncomfortable.

THE WITNESS: Well, is it I've more minutes?

THE COURT: Well, I don't know whether "uncomfortable" is the proper characterization.

THE WITNESS: Just two minutes.

[THE COURT then recessed.]

[...]

[Concerning Judge's ruling that Defendant Hoffman must answer a prosecution question]

THE WITNESS: I consider that an unfair ruling and I am not going to answer. I can't answer.

THE COURT: I direct you to answer.

THE WITNESS: Well, I take the Fifth Amendment, then.

SCHULTZ: Your Honor, the witness has taken the stand to defend the charges here. He has testified on direct examination, and he has waived his Fifth Amendment right.

THE COURT: I order you to answer, sir.

THE WITNESS: What does that mean?

THE COURT: I order you to answer the question, sir. You are required to under the law. [...]

THE COURT: I order you to answer the question. Do you refuse?

WEINGLASS: Your Honor, could we have a recess?

THE COURT: No, no. We just had a recess for that purpose.

WEINGLASS: For another question—

THE COURT: No, no. No further recesses. And I ask you to sit down.

SCHULTZ: Your Honor, may the court reporter repeat the question.

THE COURT: Yes. Read the question to the witness.

[...]

THE COURT: You may answer. I order you to answer.

THE WITNESS: I just get yes or no, huh? Yes. I was there. All my years on the witness stand, I never heard anything like that ruling.

January 2, 1970

[Continued cross-examination of Defendant Hoffman by Mr. Schultz]

SCHULTZ: I show you Government's Exhibit 18 for identification, which is a photograph. Do you recognize the photograph?

THE WITNESS: Do I recognize the general scene?

SCHULTZ: Yes.

THE WITNESS: Yes.

SCHULTZ: Do you see yourself in the photograph?

THE WITNESS: Well, we all look alike.…

[...]

WEINGLASS: When we were cross-examining on grand jury testimony–

THE COURT: Mr. Weingrass, I must caution you again when there is a ruling, the argument ceases. That is good courtroom procedure.

THE WITNESS: Weingrass?

[...]

SCHULTZ: Mr. Hoffman, isn't it a fact that one of the reasons why you came to Chicago was simply to wreck American society?

THE WITNESS: No.

SCHULTZ: Isn't it a fact, Mr. Hoffman, that—

THE WITNESS: Do you consider the Democratic Party part of American society?

THE COURT: Mr. Witness, you are not interrogating the lawyer; he is asking you questions.

[...]

SCHULTZ: As you watched on Thursday, you knew you had won the battle of Chicago. You knew you had smashed the Democrats' chances and destroyed the two party system in this country and perhaps with it electoral politics, isn't that a fact?

THE WITNESS: I knew it had destroyed itself and that the whole world would see, and that was the sense of the victory.

Closing Argument on behalf of the defendants by Mr. Kunstler

MR.KUNSTLER: Ladies and Gentlemen of the jury:

This is the last voice that you will hear from the defense. We have no rebuttal. This Government has the last word.

In an introductory fashion I would just like to state that only you will judge this case as far as the facts go. This is your solemn responsibility and it is an awesome one.

After you have heard Mr. Schultz and Mr. Weinglass, there must be lots of questions running in your minds. You have seen the same scenes described by two different people. You have heard different interpretations of those scenes by two different people. But you are the ones that draw the final inference. You will be the ultimate arbiters of the fate of these seven men.

In deciding this case we are relying upon your oath of office and that you will decide it only on the facts, not on whether you like the lawyers or don't like the lawyers. We are really quite unimportant. Whether you like the judge or don't like the judge, that is unimportant, too. Whether you like the defendants or don't like the defendants.

THE COURT: I am glad you didn't say I was unimportant.

MR.KUNSTLER: No. The likes or dislikes are unimportant. And I can say that it is not whether you like the defendants or don't like the defendants. You may detest all of the defendants, for all I know; you may love all of them, I don't know. It is unimportant. It shouldn't interfere with your decision, it shouldn't come into it. And this is hard to do. You have seen a long defense here. There have been harsh things said in this court, and harsh things to look at from your jury box. You have seen a man bound and gagged. You have heard lots of things which are probably all not pleasant. Some of them have been humorous. Some have been bitter. Some may have been downright boring, and I imagine many were. Those things really shouldn't influence your decision. You have an oath to decide the

facts and to decide them divorced of any personal considerations of your own, and I remind you that if you don't do that, you will be living a lie the rest of your life, and only you will be living with that lie.

Now, I don't think it has been any secret to you that the defendants have some questions as to whether they are receiving a fair trial. That has been raised many times.

FORAN: Your Honor, I object to this.

THE COURT: I sustain the objection.

KUNSTLER: They stand here indicted under a new statute. In fact, the conspiracy, which is Count I, starts the day after the President signed the law.

FORAN: Your Honor, I object to that. The law is for the Court to determine, not for counsel to determine.

THE COURT: I sustain the objection.

KUNSTLER: Your Honor, I am not going into the law. They have a right to know when it was passed.

THE COURT: I don't want my responsibility usurped by you.

KUNSTLER: I want you to know, first that these defendants had a constitutional right to travel. They have a constitutional right to dissent and to agitate for dissent. No one would deny that, not Mr. Foran, and not I, or anyone else.

KUNSTLER: Just some fifty years ago, I think almost exactly, in a criminal court building here in Chicago, Clarence Darrow said this:

"When a new truth comes upon the earth, or a great idea necessary for mankind is born, where does it come from? Not from the police force, or the prosecuting attorneys, or the judges, or the lawyers, or the doctors. Not there. It comes from the despised and the outcasts, and it comes perhaps from jails and prisons. It comes from men who have dared to be rebels and think their thoughts, and their faith has been the faith of rebels.

"What do you suppose would have happened to the working men except for these rebels all the way down through history? Think of the complacent cowardly people who never raise their voices against the powers that be. If there had been only these, you gentlemen of the jury would be hewers of wood and drawers of water. You gentlemen would have been slaves. You gentlemen owe whatever you

have and whatever you hope to these brave rebels who dared to think, and dared to speak, and dared to act."

This was Clarence Darrow fifty years ago in another case. You don't have to look for rebels in other countries. You can just look at the history of this country. You will recall that there was a great demonstration that took place around the Custom House in Boston in 1770. It was a demonstration of the people of Boston against the people who were enforcing the Sugar Act, the Stamp Act, the Quartering of Troops Act. And they picketed at one place where it was important to be, at the Custom House where the customs were collected. You remember the testimony in this case. Superintendent Rochford said, "Go up to Lincoln Park, go to the Bandshell, go anywhere you want, but don't go to the Amphitheatre." That was like telling the Boston patriots, "Go anywhere You want, but don't go to the Custom House," because it was at the Custom House and it was at the Amphitheatre that the protesters wanted to show that something was terribly and totally wrong. They wanted to show it at the place it was important, and so the seeming compliance of the City in saying n "Go anywhere you want throughout the city. Go to Jackson Park. Go to Lincoln Park," has no meaning. That is an excuse for preventing a demonstration at the single place that had meaning, which was the Amphitheatre. The Custom House in Boston was the scene of evil and so the patriots demonstrated. They ran into Chicago. You know what happened. The British soldiers shot them down and killed five of them, including one black man, Crispus Attucks, who was the first man to die, by the way, in the American revolution. They were shot down in the street by the British for demonstrating at the Custom House.

You will remember that after the Boston Massacre which was the name the Colonies gave to it. all sorts of things happened in the Colonies. There were all sorts of demonstrations—

FORAN: Your Honor, I have sat here quite a while and I object to this. This is not a history lecture. The purpose of summation is to sum up the facts of the case and I object to this.

THE COURT: I do sustain the objection. Unless you get down to evidence, I will direct you to discontinue this lecture on history. We are not dealing with history.

KUNSTLER: But to understand the overriding issues as well, your Honor-

THE COURT: I will not permit any more of these historical references and I direct you to discontinue them, sir.

KUNSTLER: I do so under protest, your Honor. I will get down, because the judge has prevented me from going into material that I wanted to—

FORAN: Your Honor, I object to that comment.

THE COURT: I have not prevented you. I have ruled properly as a matter of law. The law prevents you from doing it, sir.

KUNSTLER: I will get down to the evidence in this case. I am going to confine my remarks to showing you how the Government stoops to conquer in this case.

The prosecution recognized early that if you were to see thirty-three police officers in uniform take the stand that you would realize how much of the case depends on law enforcement officers. So they strip the uniforms from those witnesses, and you notice you began to see almost an absence of uniforms. Even the Deputy Police Chief came without a uniform. Mr. Schultz said, "Look at our witnesses. They don't argue with the judge. They are bright and alert. They sit there and they answer clearly." They answered like automatons— one after the other, robots took the stand. "Did you see any missiles?" "A barrage." Everybody saw a barrage of missiles. "What were the demonstrators doing?" "Screaming. Indescribably loud." "What were they screaming?" "Profanities of all sorts."

I call your attention to James Murray. That is the reporter, and this is the one they got caught with. This is the one that slipped up. James Murray, who is a friend of the police, who thinks the police are the steadying force in Chicago. This man came to the stand, and he wanted you to rise up when you heard "Viet Cong flags," this undeclared war we are fighting against an undeclared enemy. He wanted you to think that the march from Grant Park into the center of Chicago in front of the Conrad Hilton was a march run by the Viet Cong, or have the Viet Cong flags so infuriate you that you would feel against these demonstrators that they were less than human beings. The only problem is that he never saw any Viet-Cong flags. First of all, there were none, and I call your attention to the movies, and if you see one Viet Cong flag in those two hours of movies at Michigan and Balbo, you can call me a liar and convict my clients.

Mr. Murray, under whatever instructions were given to him, or under his own desire to help the Police Department, saw them. I asked him a simple question: describe them. Remember what he said? "They are black." Then he heard laughter in the courtroom because there isn't a person in the room that thinks the Viet Cong flag is a black flag. He heard a twitter in the courtroom. He said, "No, they are red." Then he heard a little more laughter. Then I said, "Are they all red?". He said, "No, they have some sort of a symbol on them." "What is the symbol?" "I can't remember."

When you look at the pictures, you won't even see any black flags at Michigan and Balbo. You will see some red flags, two of them, I believe, and I might say to you that a red flag was the flag under which General Washington fought at the Battle of Brandywine, a flag made for him by the nuns of Bethlehem. I think after what Murray said you can disregard his testimony. He was a clear liar on the stand. He did a lot of things they wanted him to do. He wanted people to say things that you could hear, that would make you think these demonstrators were violent people. He had some really rough ones in there. He had, "The Hump Sucks," "Daley Sucks the Hump"---pretty rough expressions. He didn't have "Peace Now." He didn't hear that. He didn't give you any others. Oh, I think he had "Charge. The street is ours. Let's go." That is what he wanted you to hear. He was as accurate about that as he was about the Viet Cong flag, and remember his testimony about the whiffle balls. One injured his leg. Others he picked up. Where were those whiffle balls in this courtroom?

You know what a whiffle ball is. It is something you can hardly throw. Why didn't the Government let you see the whiffle ball? They didn't let you see it because it can't be thrown. They didn't let you see it because the nails are shiny. I got a glimpse of it. Why didn't you see it? They want you to see a photograph so you can see that the nails don't drop out on the photograph. We never saw any of these weapons. That is enough for Mr. Murray. I have, I think, wasted more time than he is worth on Mr. Murray.

Now, I have one witness to discuss with you who is extremely important and gets us into the alleged attack on the Grant Park underground garage.

This is the most serious plan that you have had. This is more serious than attacking the pigs, as they tried to pin onto the Yippies and the National Mobe. This is to bomb. This is frightening, this concept of bombing an underground garage, probably the most frightening concept that you can imagine. By the way, Grant Park garage is impossible to bomb with Molotov cocktails. It is pure concrete garage. You won't find a stick of wood in it, if you go there. But, put that aside for the moment. In a mythical tale. it doesn't matter that buildings won't burn.

[...]

In judging the nonexistence of this so-called plot, you must remember the following things.

Lieutenant Healy in his vigil, supposedly, in the garage, never saw anything in anybody's hands, not in Shimabukuro's, whom he says he saw come into the garage, not in Lee Weiner's hands, whom he

said he saw come into the garage, or any of the other four or five people whom he said he saw come into the garage. These people that he said he saw come into the garage were looking, he said, in two cars. What were they looking into cars for? You can ask that question. Does that testimony make any sense, that they come in empty-handed into a garage, these people who you are supposed to believe were going to fire bomb the underground garage?

Just keep that in mind when you consider this fairy tale when you are in the jury room.

Secondly, in considering it you have the testimony of Lieutenant Healy, who never saw Lee Wiener before. You remember he said "I never saw him before. I had looked at some pictures they had shown me."

But he never had seen him and he stands in a stairwell behind a closed door looking through a one-foot-by-one-foot opening in that door with chicken wire across it and a double layer of glass for three to four seconds, he said, and he could identify what he said was Lee Wiener in three to four seconds across what he said was thirty to forty yards away.

FORAN: Your Honor, I object to "three or four seconds." It was five minutes.

MR.KUNSTLER: No, sir. The testimony reads, your Honor, that he identified him after three or four seconds and if Mr. Foran will look—

FORAN: Then he looked at him for five minutes.

MR.KUNSTLER: He identified him after three or four seconds.

THE COURT: Do you have the transcript there?

FORAN: Your Honor, I would accept that. He identified him immediately but he was looking at him for five minutes.

MR.KUNSTLER: I just think you ought to consider that in judging, Lieutenant Healy's question. This officer was not called before the grand jury investigating that very thing. And I think you can judge the importance of that man's testimony on whether he ever did tell the United States Attorney anything about this in September of 1968.

I submit he didn't because it didn't happen. It never happened. This is a simple fabrication. The simple truth of the matter is that there never was any such plot and you can prove it to yourselves. Nothing

was ever found, there is no visible proof of this at all. No bottles. No rags. No sand. No gasoline. It was supposed to be a diversionary tactic, Mr. Schultz told you in his summation. This was a diversionary tactic. Diversionary to what? This was Thursday night.

If you will recall, the two marches to the Amphitheatre that got as far as 16th and 18th streets on Michigan had occurred earlier. The only thing that was left was the Downers Grove picnic. It was a diversionary operation to divert attention from the picnic at Downers Grove. It was diversionary to nothing. The incident lives only in conversations, the two conversations supposedly overheard by Frapolly and Bock, who are the undercover agents who were characterized, I thought, so aptly by Mr. Weinglass.

Now just a few more remarks. One, I want to tell you that as jurors, as I have already told you, you have a difficult task. But you also have the obligation if you believe that these seven men are not guilty to stand on that and it doesn't matter that other jurors feel the other way. If you honestly and truly believe it, you must stand and you must not compromise on that stand.

FORAN: Your Honor, I object to that. Your Honor will instruct the jury what their obligations are.

THE COURT: I sustain the objection. You are getting into my part of the job.

MR.KUNSTLER: What you do in that jury room, no one can question you on. It is up to you. You don't have to answer as to it to anybody and you must stand firm if you believe either way and not

FORAN: Your Honor, I object to that.

THE COURT: I sustain the objection. I told you not to talk about that, Mr. Kunstler.

MR.KUNSTLER: I think I have a right to do it.

THE COURT: You haven't a right when the Court tells you not to and it is a matter of law that is peculiarly my function. You may not tell the jury what the law is.

MR.KUNSTLER: Before I come to my final conclusion, I want to thank you both for myself, for Mr. Weinglass, and for our clients for your attention. It has been an ordeal for you, I know. We are sorry that it had to be so. But we are grateful that you have listened. We know you will weigh, free of any prejudice on any level, because if you didn't, then the jury system would be destroyed and would have no meaning whatsoever. We are living in extremely troubled times, as Mr. Weinglass pointed out. An intolerable war abroad has divided and dismayed us all. Racism at home and poverty at home are both

causes of despair and discouragement. In a so-called affluent society, we have people starving, and people who can't even begin to approximate the decent life.

These are rough problems, terrible problems, and as has been said bv everybody in this country, they are so enormous that they stagger the imagination. But they don't go away by destroying their critics. They don't vanish by sending men to jail. They never did and they never will.

To use these problems by attempting to destroy those who protest against them is probably the most indecent thing that we can do. You can crucify a Jesus, you can poison a Socrates, you can hand John Brown or Nathan Hale, you can kill a Che Guevara, you can jail a Eugene Debs or a Bobby Seale. You can assassinate John Kennedy or a Martin Luther King, but the problems remain. The solutions are essentially made by continuing and perpetuating with every breath you have the right of men to think, the right of men to speak boldly and unafraid, the right to be masters of their souls, the right to live free and to die free. The hangman's rope never solved a single problem except that of one man.

I think if this case does nothing else, perhaps it will bring into focus that again we are in that moment of history when a courtroom becomes the proving ground of whether we do live free and whether we do die free. You are in that position now. Suddenly all importance has shifted to you---shifted to you as I guess in the last analysis it should go, and it is really your responsibility, I think, to see that men remain able to think, to speak boldly and unafraid, to be masters of their souls, and to live and die free. And perhaps if you do what is right, perhaps Allen Ginsberg will never have to write again as he did in "Howl," "I saw the best minds of my generation destroyed by madness," perhaps Judy Collins will never have to stand in any Courtroom again and say as she did, "When will they ever learn? When will they ever learn?"

Closing Argument on Behalf of the Government by Mr. Foran

FORAN: May it please the Court, counsel, ladies and gentlemen of the jury: The recognition of the truth, which is your job, is a very strange thing. There is a real difference between intellectualism and intelligence. Intellectualism leaves out something that intelligence often had and what it really is is a kind of a part of the human spirit. You know many men will be highly intellectual and yet they will have absolutely terrible judgment.

When you stop and think of it. among the twelve of you there is certainly somewhere in excess of four hundred years of human intelligence and instinct, and that is a lot, and that is important […]

Much of the concept of the assault by the defendants on the Government's case is: Would anybody do some of these wild things? Most people wouldn't. But those defendants would.

Some of the things that the Government's witnesses testified that some of these defendants did were pretty wild things, and it would be hard to believe that most people, most decent people, would ever do anything like it. Is it so hard to believe that these men would do it?

Has any one of you, for instance, noticed how in the last few days as we reach the end of the case and it comes before for decision, the sudden quieting in the courtroom, the sudden respect, the sudden decency that we see in this courtroom? For that, are we to forget the four-and-a-half months of what we saw?

The defendants in this case— first of all, they kind of argued in a very strange way that there was no violence planned by these defendants at the Democratic Convention.

Since they have no evidence that violence wasn't planned, the way they argue it is that they say Bock, Frapolly, and Oklepek and Pierson lied. They state that they lied categorically. They said, "Because Bock, Frapolly, Pierson, and Oklepek were undercover agents for the police or newspapers, and therefore, they cannot be honest men.

Now how dare anybody argue that kind of a gross statement? Some of the bravest and the best men of all the world, certainly in law enforcement, have made their contributions while they were undercover. That statement is a libel and a slander on every FBI agent, every Federal narcotics agent, every single solitary policeman who goes out alone and unprotected into some dangerous area of society to try to find out information that is helpful to his government. It is a slander on every military intelligence man, every Navy intelligence man who does the same thing. There is something that is very interesting, and I bet you haven't noticed it.

The August 9 meeting, you remember that meeting was at Mobilization headquarters. There was a lot of talk and a lot of planning at that meeting. Frapolly, Bock, and Oklepek were all there. So were Dellinger, Davis, Hayden, Weiner, Froines, and Hoffman.

All three of the Government witnesses testified that the march routes to the Amphitheatre were discussed. All agreed that the dangers of the march routes were discussed. All agreed that mill-ins in the Loop were planned during that week: disruptions, blocking cars driving down the street, smashing

windows, shut the Loop down, generally make havoc in the Loop area, setting small fires— and, by the way, it all happened.

All of those things that I just mentioned happened on Wednesday of Convention week, and all of them happened in the downtown area right at Michigan and Balbo.

You know, they were saying, "What did they plan that happened?" Well, everything. That was a pretty good shot on the first big meeting.

In addition to the defendants, who else was there at that meeting? Bosciano, Radford, Baker, Steve Buff, and about eight other people. Where are they? If Bock and Frapolly and Oklepek were lying, why weren't they in here testifying that something else was said at that meeting, or that Davis was telling the truth about what he said was said at that meeting. Where are they? Buff took the witness stand, and they didn't even ask him about the meeting. They didn't even ask him.

The reason that none of the friends and pals of these defendants that were at those meetings didn't come in here and testify or, if they did, ignored the meetings, was because Bock, Frapolly and Oklepek were telling the truth, and if they talked about those meetings on the witness stand, they would have no choice, they would either have to back Bock and Frapolly and Oklepek or they would have to lie. They were at those meetings planning and organizing for the violence that they were going to instigate and incite in Chicago. And when all that organizing and planning was completed, the time to start the execution of the plan had arrived.

The first thing they had to do is they had to keep this crowd of people getting excited, getting into trouble, but not so much trouble that they would run into a mass arrest situation before Wednesday because they needed the crowd on Wednesday if they were going to have their big confrontation.

And so what they decided---and stop and think of it, remember at the beginning of this case they were calling them all by diminutive names, Rennie and Abbie and Jerry, trying to pretend they were young kids. These are highly sophisticated, highly educated men, every one of them. They are not kids. Davis, the youngest one, took the witness stand. He is twenty-nine. These are highly sophisticated, educated men and they are evil men.

[laughter]

THE COURT: Mr. Marshal.

FORAN: What they have in mind they need to be sophisticated for and they need to be highly educated for because what they have in mind is what Davis told you he had in mind. It is no judgment of mine. Davis told you from that witness stand after two-and-a-half days of the toughest cross-examination I was ever involved in because he was so smart and so clever and so alert, but at last he told you "Revolution. Insurrection." And he told you— I am not— you heard it right from the witness stand.

And so these sophisticated men decided that the first thing that they had to do was to test the police. They had to find out what they could do, where they would be stepping too far, you know, where they would run into trouble.

So the first march they had on Sunday they sent the whole--most of them went down opposite the Hilton Hotel. They had an orderly legal march, legal picketing, and there was absolutely no trouble. Remember Davis back at that August 9 meeting, "We'll lure the McCarthy kids and other young people with music and sex and try to hold the park." And all of this was done the first night. The first night they carried out that plan. But to carry out the big plan they had to generate more heat the next day so that by Wednesday the psychological training ground of this crowd and the psychological torture of the police, that combination would have reached the proper mix for what they had in mind for Wednesday night. Say you are in the park after 11:00 p.m., and the law says you are supposed to go; a policeman says, "Leave." You say, "Hell, no." He has only two choices, doesn't he? He either has to walk away from you and not enforce the law, or he has to use whatever physical force is necessary to make you leave. So, he reaches down-say he takes you by the arm. Then what do you do? You scream, "Let me alone! Let me alone! Police brutality!" And you start wrestling around. Then he had again only two choices. Either he had to physically subdue you right there on the spot, or he had to get help in order to carry you out.

MR.KUNSTLER: There is no evidence of that at all, your Honor. Mr. Foran is making up a story here. I object, your Honor.

THE COURT: I overrule your objection. You may continue, sir.

FORAN: If the police get tough and wrongfully---and it is wrong for a policeman to say, "This man is not going to go," so he cracks him, that is wrong. He shouldn't do that. But say he does it, which they do, policemen do that, then the crowd takes that as total justification to attack the police with rocks and bottles. and to say, "We are defending ourselves."

The technique is simple, and it can fit any situation, and you have seen it fit situations in this courtroom. Somebody violates the regulation of this courtroom, and the marshal asks him to leave, and he won't, so he takes him by the arm, "Aaaaccchhh! Dirty rotten marshal!" And that had happened, and that is the way it is done, and it is done. You know, this is done in complicated situations and in simple situations.

Monday night in Lincoln Park as the curfew approached, there was Rubin, "Arm yourselves with anything you can. Now is the time to make our stand." Earlier, he had been doing the same thing. That is the night they built the barricade, just like they planned on August 9.

It was a rough night in the park. There was gas. Davis is there on the bullhorn. He is shouting encouragement to the crowd to "Fight the pigs" and "Hold the park," committing a criminal act, by the way, inciting a crowd. He had just left his cohort, Hayden, downtown. who had been arrested near the Hilton…

Rubin, as usual, was in the park on Tuesday. He gives a speech to the crowd telling them to take this country away from the people who run it. "Take to the streets in small groups," just as he told Pierson that the Viet Cong had done, and he finished up his revolution exhortation with, "See you in the streets." These are criminal acts. They are urging people to violence.

Seale followed on the podium with a wild speech telling the crowd to "Get their pieces and barbecue that pork." And we are supposed to wonder, you know, it doesn't mean what it means. That is what the argument is. "It doesn't mean what it means." Of course, you know what it means. "You get your gun and you kill a policeman." That is what is means. It is as obvious as anything from the context of the speech. You heard the whole speech. To say anything else is ridiculous. It is calling black white.

Up at the park, again, Tuesday night, over and over again, the police were saying, "Clear the park. Clear the park." Finally, at 12:30 A.M., the police moved forward again, and again they were met with a hail of missiles. This time, Froines was right up in the front line, throwing rocks and stones himself.

The police really let them have it with tear gas that night. They had a dispenser, and there was a lot of gas, and the crowd got out quickly. I don't know, maybe that is a better way, but I don't know. There was a lot of gas. It is a temporary bad feeling, but at least nobody gets hurt. Maybe it is a better way.

The battle plan that had been talked about by Davis on August 9, was almost ready. Young people had been moved into the park. They fought and resisted the police. And now the time had come to start shifting the scene down to the downtown area, and just as they planned, the Hilton area was going to be the focus of the next action. The crowd was pretty heated and pretty militant, and it has been whipped up really in Lincoln Park, starting way back on August 13 with all of these things, with crazy snake dancing, and with the skirmish lines. To be trained in karate is something because karate is a vicious thing. If you are any good at it, you can kill somebody with it. It is a vicious way to fight.

The police had been taunted and insulted and attacked until the weak ones among them, and there are plenty of weak policemen, were losing their professionalism. and they were ripe to be driven into joining some of these participants in rioting.

And then they have that meeting in Mobilization headquarters the next morning where they set it up with a kind of---well, it is a combination of "the massive action with the cutting edge of resistance." They used it successfully at the Pentagon and they were now going to transfer it into the practicalities of Chicago.

Dellinger, Davis, Hayden, Froines, Weiner and Rubin all leave to do their various jobs.

The meeting started at the Bandshell. Dellinger was running the public show up on the stage and Davis was giving instructions to his marshals out behind that refreshment stand, those marshals who, as Froines said, were a lot better street fighters than they ever were what marshals are supposed to be. He says "Disperse the police. Reduce their effectiveness."

Others of the militant group were seen preparing their vicious, filthy weapons— bags of urine, pointed sticks, sharpening tiles. The mood of those militants in that crowd was shown real quickly when that flag came down to half-mast. When that flag came down and those six policemen went in to arrest the man, they were grossly attacked by that crowd.

And the honesty of the defense is pointed out most clearly by the argument of counsel that they were throwing their lunches at the police and that these were picnickers throwing lunches at the police. These weren't picnickers unless those picnickers eat rocks and bottles for lunch. Rubin in his volatile way had been caught up in the excitement and he was in there pitching, "Kill the pigs. Kill the pigs."

But Dellinger and Davis were a lot cooler than that. They let them continue for a while. It went on for about fifteen minutes and then they cooled it down because it was still daylight and things were— you know, it wasn't quite ready yet. And that's when Davis got hit. Look at this picture in the jury

room. He's got a cut on his head and he's bleeding some and he's smiling and he looks very alert and he doesn't look like he's going to fall unconscious to me.

The thing that you have got to recognize is that you have to tie the Bandshell back to that meeting Wednesday morning. Exactly what was planned at that meeting Wednesday morning happened at the Bandshell.

A diversionary march was set up by Dellinger. Another action was set up by Dellinger. As I said earlier, I think like a ventriloquist he used Tom Neumann. Neumann's name had been talked about that morning at that meeting at the Mobilization office as one of the speakers. Neumann was one of the men. The plan was made there at that meeting.

You can gather a whole bunch of people, most of them don't want to riot, but maybe want to protest, maybe want to get in on the act, maybe want to have some fun, maybe want to fight policemen. You gather enough people together, and you have some people who are dedicated to causing public disorder for serious purposes. You don't need a big crowd. And that is what these people always try to do. They tried to shift it off on all youth. They are talking about our children.

There are millions of kids who, naturally, if we could only remember how it is— you know, you resent authority, you are impatient for change, you want to fix things up. Maybe you are very sensitive and you feel the horrors of racism which is a real cancer in the American character, there is no question about that. You feel a terrible frustration of a terribly difficult war that maybe as a young kid you are going to have to serve in. Sure, you don't like things like that. There is another thing about a kid, if we all remember, that you have an attraction to evil. Evil is exciting and evil is interesting, and plenty of kids have a fascination for it. It is knowledge of kids like that that these sophisticated, educated psychology majors know about. They know about kids, and they know how to draw the kids together and maneuver them, and use them to accomplish their purposes. Kids in the 60s, you know, are disillusioned. There is no question about that. They feel that John Kennedy went, Bobby Kennedy went, Martin Luther King went— they were all killed— and the kids do feel that the lights have gone out in Camelot, the banners are furled, and the parade is over.

These guys take advantage of them. They take advantage of it personally, intentionally, evilly, and to corrupt those kids, and they use them, and they use them for their purposes and for their intents. And you know, what are their purposes and intents? Well, they tell you, these men tell you this, and this is what troubles me, that some of the things you can really taste.

What is their intent? And this is their own words: "To disrupt. To pin delegates in the Convention hall. To clog streets. To force the use of troops. To have actions so militant the Guard will have to be used. To have war in the streets until there is peace in Vietnam. To intimidate the establishment so much it will smash the city. Thousands and thousands of people perform disruptive actions in Chicago. Tear this City apart. Fuck up the Convention. Send them out. We'll start the revolution now. Do they want to fight? The United States is an outlaw nation which had broken all the rules so peace demonstrators can break all the rules. Violate all the laws. Go to jail. Disrupt the United States Government in every way that you can. See you in Chicago." And these men would have you believe that the issue in this case is whether or not they really wanted permits.

Public authority is supposed to stand handcuffed and mute in the face of people like that and say, "We will let you police yourselves"? How Would public authority feel if they let that park be full of young kids through that Convention with no policemen, with no one watching them? What about the rape and the bad trips and worse that public authority would be responsible for if it had?

They tried to give us this bunk that they wanted to talk about racism and the war and they wanted a counter-convention. They didn't do anything but look for a confrontation with the police. What they looked for was a fight, and all that permits had to do with it was where was the fight going to be, and that's all. And they are sophisticated and they are smart and they are well-educated. And they are as evil as they can be…

Riots are an intolerable threat to every American and those who lead others to defy the law must feel the full force of the law." You know who said that? Senator Bob Kennedy said that, who they tried to adopt.

"In a government of law and not of men, no man, no mob, however unruly or boisterous, is entitled to defy the law."

Do you know who said that? John Kennedy.

The lights in that Camelot kids believe in needn't go out. The banners can snap in the spring breeze. The parade will never be over if people will remember, and I go back to this quote, what Thomas Jefferson said, "Obedience to the law is the major part of patriotism." These seven men have been proven guilty beyond any doubt. They didn't attack the planning they were charged with. They did not say it didn't happen. They are guilty beyond any doubt at all of the charges contained in the indictments against them.

You people are obligated by your oath to fulfill your obligation without fear, favor, or sympathy. Do your duty.

The West Memphis Three

Opening statement by the Prosecutor John Fogleman

[Fogleman refers to exhibit 101 (the aerial photo map of Robin Hood Hills) throughout his opening.]
FOGLEMAN: May it please the Court, the attorneys for the defense, ladies and gentlemen of the jury, last week you went through a process that is known as voir dire which literally means to "speak the truth" and that's what you were asked to do as you know, as you were back there being questioned by the attorneys for each side. That process is designed to find 12 people who can be fair and impartial to both sides, not favoring one side or the other, but who can give it both sides an even shake and start off with a blank slate. At this stage of the trial, known as the opening statement, the attorneys for each side, myself on behalf of the state, uh Mr. Ford and Mr. Wadley on behalf of Mr. Baldwin, Mr. Price and Mr. Davidson on behalf of Mr. Echols, have the opportunity to come before you and tell you a little bit about the case and what issues or questions you're gonna be asked to resolve in reaching your verdict in this case. Now our purpose, as I say, is to help you, to aid and assist you, the jury, and not only having some idea of what the evidence is to be but also what issues or questions or what elements uh you'll be asked to decide whether the state's proven or not. Now in this particular case, the charge is capital murder and for you to return a verdict of guilty, on any count, in order to sustain a conviction for the charge of capital murder, I expect at the appropriate time, Judge Burnett will tell you that the state must prove beyond a reasonable doubt, two things as to each defendant and as to each victim. First that Damien Echols or Jason Baldwin, looking at them separately, or an accomplice, somebody acting in concert with them, caused the death on one count Michael Moore, on another count Stevie Branch, and on the last count Chris Byers. That's the first element, that one of these... that this defendant or an accomplice, caused the death of these kids. The second element is that when they did this, when these defendants did this, that they did so with the premeditated and deliberated purpose of doing so.
Now what's the proof expected to show? The proofs expected to show, ladies and gentlemen, that on May the 5th, 1993, Michael Moore was 8 years old, he was a student at Weaver Elementary School in West Memphis, uh, a school right there in the neighborhood where he lived. Stevie Branch was 8 years old in the second grade at Weaver Elementary. Chris Byers was 8 years old and in the second grade at Weaver Elementary. The proofs going to show that there's an area in their general

neighborhood known as Robin Hood Hills and the proofs going to show that... that area is a what every kid's dream would be for a place to play, hills and trails and woods, and the kinds of things that kids would love to have to play in and explore and in this case... Ladies and gentlemen, the... to point to this area this entire area all through here and down in here and specifically in this wooded area here is what the proof is going to show is known as Robin Hood Hills, all of that areTHE DEFENDANT: This is North 14th Street, right here. This is Goodwin Circle and at the end of where the North 14th intersects with Barton, a little further to the South on this photograph, right on the corner Michael Moore lived, and across on the other corner, Chris Byers lived. Stevie Branch lived a little further south than they did. And at about 6 o'clock on May the 5th, Chris Byers and Stevie Branch were on a bicycle and Michael Moore was on a bicycle and they were seen headed north on 14th, toward this area, and a lady that lived in this house, right here, saw the boys in that area and they were last seen headed towards Robin Hood Hills. This was about 6 o'clock. When the boys didn't come home when they were supposed to, the parents, of course, began searching and um... spent a frantic night of searching. The next morning searching continued, search and rescue people were involved, uh... the entire detective division of the West Memphis Police Department, everybody looking for Michael and Stevie and Chris. Well finally, in this area here, this is a, right here, this is Ten Mile Bayou, and coming into Ten Mile Bayou, coming through these woods, is a smaller, we'll call it a creek, it's probably more like a ditch.... running through this wooded area and into this ditch. People were searching all out in here and in here and practically all over West Memphis and that part of Crittenden County. Over in these woods, just searching everywhere. A tennis shoe is seen floating in the creek. Officer Mike Allen goes to the scene, sees the shoe. He tries to get into the position to to get to the shoe and he falls into the water. And he walks around this tree and gets back into the water. Walks to the tennis shoe, he feels something against his foot. He lifts up his foot and the body of Michael Moore floats up. At that time, they secure the scene... other officers are called to the scene, they secure that area and Detective Bryn Ridge gets into this creek or ditch and goes inch by inch and finds Michael Moore, then removes his body. He's bound, hand to foot, he's naked. I believe his head is to the north, his feet to the south, laying on his side. They go up, they find some clothing, they find tennis shoes, Michael's cub scout cap, [inaudible] they go further to the south in the ditch, and find Stevie Branch. He's naked, bound hand in foot, under the water. They remove him, they go a little bit further to the south, and they find Chris Byers, bound in the same manner. In this area, the proofs going to show that right in the area where Michael Moore was, there's an area that uh.. it didn't look like any of the other surrounding area, uh, there were uh, no leaves on this particular part of the bank, uh, there were uh, had a shining quality to it, it had been, it appeared to have been, the proofs going to show had been, uh, slicked off, or like scuff marks, unnatural marks to the area, where as the area

right beside it had leaves on it, and didn't have that appearance. There's no blood. No blood. At all. The clothes were, of the boys err uh, crammed down into the mud, except for the shoes that floated up. Uh, their bicycles were found, right here there's a pipe right here over ten mile Bayou, [inaudible] it's a drainage canal, a big pipe with i-beams beside it and the kids would walk across this i-beam and play over here and you can see some of these trials when you get the photographs and see them up close. And right here at this pipe and the i-beam the searchers found the kids bicycles in the Ten Mile Bayou, where they had been dumped.

Now as the proof develops, there's, I want to tell you in advance, there's going to be a lot of testimony from the Arkansas crime laboratory and some of this evidence is gonna be what we call I guess you call it negative evidence. It doesn't really show a connection to anybody. And there'll be a reason for us putting that on and we'll explain that to you later. But for instance there'll be proof like on the bicycles there aren't any finger prints. On some things that were in the kids pockets, no finger prints. Things like that. And you may wonder why we're putting on evidence of the negative, but we'll explain that to you later. Now as the proof develops, the proof is going to show, ladies and gentlemen, through scientific evidence, the statements of these own defendants, Damien Echols and Charles Jason Baldwin, and other evidence that they caused the deaths of Michael Moore, Stevie Branch and Chris Byers. Now in the element, on the element of premeditation, when you hear the descriptions of the injuries and see the injuries and we expect the proofs going to show but one conclusions and that is that these deaths were premeditated. The proofs going to show, ladies and gentlemen, that Michael Moore suffered severe head injuries and he was drowned. The proofs going to show that Stevie Branch suffered severe head injuries, the left side of his face was mutilated, and he drowned. The proofs going to show that Christopher Byers had severe head injuries, skull fractures, that his genital area was removed and that he bled to death before being placed in the water. At the conclusion of this case, ladies and gentlemen, after all of the proofs in, after each witness has testified from this witness stand, after Judge Burnett has instructed you on the law, I expect to come back and stand before you and ask for your verdict of guilty on capital murder for the death of Michael Moore, Stevie Branch, and Chris Byers.

Opening Statement of Defense Attorney Scott Davidson (for Damien Echols)

February 28, 1994

DAVIDSON: Good morning, ladies and gentlemen, again my name is Scott Davidson and VAL PRICE: and I are representing Damien Echols in this case. Now, I had the opportunity to talk with some of you during the voire dire process and Val talked with some of you and uhm, we both agree that uh, we believe that you are a jury that will hold the prosecutor to his burden of proof beyond a reasonable doubt. Now this uh now that we're through with the voire dire process, this is as both the lawyers have already explained to you is opening statements where we can give you a birds eye-view of what we expect the evidence to show. Now, uh, after the opening statements here, we will begin our testimony, the prosecutor will be able to put his testimony on first. Now, I ask that each of you remember that the cross examination or the testimony that we will be able to elicit after they have put their witnesses on, we will be able to question each witness and that cross examination is just as much evidence and is just as much testimony that you can consider and we ask that you remember that. Not only that, also, the prosecutor will be able to put on his entire case before we have an opportunity to uhm, put anybody on. So I ask that you just keep an open mind and as you promised earlier in voire dire, to wait until all of the testimony is in before making up your mind. Wait until you've seen all of the evidence and been instructed by the court and go back and deliberate before you make up your mind in this case. Now this is the, uhm, opportunity that we have to tell you what we expect the evidence to show. Uh, to be truthful with you, this is a little bit of an unusual case, in that there are, we got a list of maybe 150 witnesses, potential witnesses, and I could sit here and go through what we expect each witness may say, uhm, but we'd be here uh, for a long period of time. So rather than doing that and going through each one of those witnesses and uh, giving you a preview, what I'm going to do is to give you four different themes that I think that you will see from the testimony that is elicited, both during opening, uh, or during the direct examination of the case of the uh, prosecutor and the case that we will put on. Four different themes that I think that you will see. And the first thing...

[Davidson writes on a board]

1. Police Ineptitude.

The first thing that I think that you will see from the testimony that is elicited is police ineptitude. In other words, I think that what you will see will be sloppy police work. I think as you see the case progress, you will see things that the police decided not to do, you will see evidence they decided not to send into the crime lab, you will see leads that they chose not to follow, you will see people they chose not to talk to and I think this is a theme. I don't know if the bailiff gave you uh uh uh pads, but I suggest if you didn't get one, start marking these down. I think you will see that from the testimony that comes out, it will be very evident to you. Number one, police ineptitude. The second theme that I think you will see from the evidence that is presented, is what I call...

[Davidson writes on the board again]

2. Damien Echols Tunnel Vision.

I think that you will see from the testimony that when they couldn't find anybody, uh, any truckers, when they couldn't find the transients, they couldn't find the V.A vet, they began looking for somebody to pin this crime on. They began looking for someone, in the community, who can we put this thing on? And I think that you will see that they began having Damien Echols tunnel vision where they start taking all the evidence that comes and trying' to, as Mr. Ford said, fit it into their little puzzle, fit in to their little picture. Now, I anticipate, that you'll also see that basically these will fit together and those are basically the same thing. Now, as we look at this, I think that you'll see that there are again, people that they didn't talk to, and that's just as important as the ones that they talked that we submit. And, now, there is a by-product to this. You're also going to see that our client Damien Echols, uh, well, I'll be honest with you... he's not the All American boy, uhm, he's kind of weird. He's not the same uh, uh, as maybe you and I might be. Uhm, that'll be evident. But I think you will also see that there's simply not evidence that he murdered these three kids. So number 1, police ineptitude, number 2, Damien Echols tunnel vision. I think the third thing, and the third theme that you will see from the witnesses, is that Damien Echols simply was not there. And I'm gonna Again.

[Davidson writes on a board]

3. Damien was not there.

Again, wait until all the testimony is on. It may be a long time before you see this, but I think that you will see it. We will put witnesses on, and these witnesses will be able to tell you, Damien Echols was not there. We'll have family and friends saying he was not there, this is where was on the afternoon of May 5th of 1993, this is where he was on the evening of May 5th of 1993. So wait. Take notes of these things also. That's the third theme that I think that you will see. Now, the 4th theme that I think that you will see...

[Davidson writes on the board again]

4. Prosecutor has not proven guilt beyond a reasonable doubt.

And this really, includes all of them and says that the prosecutor has not proven guilt beyond a reasonable doubt. And I think that those are four themes that you can look for as you look at all the testimony that comes, uh, comes out. At this point, you may be asking yourself, "Why did they put me on this jury? Why am I here? Why am I sitting here?" Well the reason, ladies and gentlemen, is that each of you are the barrier. You are the barrier, you, individually and collectively are the barrier, you're the, you're the ones that require the prosecutor to prove guilt beyond a reasonable doubt. You're the ones that upheld the oath, you're the ones that answered the questions back there that you would do so. And, there's a number of things that you impliedly said when you swore in as a juror. And the

first one is that you would follow the law, as the judge gives it to you, whether you, like it or not, that you would follow the law. The second one is, you promise to try Damien Echols on the testimony that is elicited from the witness stand and from the exhibits that are produced at trial. Not upon suspicion, not upon guess work, not upon innuendo, and not upon anything you may have heard or read in the press. But solely upon what comes from the witness stand. And the third thing that you impliedly said that you would do, that you'd listen to the testimony. That when someone gets up on that stand, that you'd look at 'em in the eye...

DAVIS: [somewhat inaudible, but sounds like: Your honor, excuse me Mr. Davidson, I hate to interrupt you] Your honor, it's not that the state disagrees necessarily with what Mr. Davidson is saying but it seems that that's appropriate for closing argument, and it's certainly is not outlining what he intends the evidence to show. [becomes inaudible because multiple people start talking]

BURNETT: Avoid argument, ah...

DAVIDSON: I will. That you would look at them in the eye and you are, will be the judges of the credibility of the witnesses, and you will be the ones to say whether or not they're telling the truth or not. Now, that's what we're here for. As Mr. Ford already said, it's a search for the truth. And you're the ones that are here to determine what that truth is. And we believe that uh, you will give our client a fair and honest evaluation. I believe that as the testimony comes on that you will be able to look at it and decide what is credible and what is not. What... what things the police department has said, you can say whether that is credible or not. Look at its, consider its source, consider the motive, consider the logical and factual inconsistencies and at the end of the case, we're gonna ask you to come back and weigh these inconsistencies and the source and the motive against that heavy burden of guilt beyond a reasonable doubt and we think that when you do, and that when you go back and deliberate that you'll come back with the only possible verdict and that's a verdict of not guilty. Thank you.

Witness Testimony: Damien Echols

Damien Echols

Witness for the Defense

March 9, 1994

VAL PRICE: Please state your name for the court.

THE DEFENDANT: Damien Wayne Echols.

VAL PRICE: Damien, where were you born?

THE DEFENDANT: West Memphis, Arkansas.

VAL PRICE: Did you live in West Memphis for a certain period of time?

THE DEFENDANT: I've moved all around the United States, but I've generally moved back to West Memphis after each time.

VAL PRICE: Do you recall approximately when the first move that you made was?

THE DEFENDANT: I was too young to remember.

VAL PRICE: How about - Was there a certain period of time when you moved to Oregon?

THE DEFENDANT: Mm-hmm [yes]

VAL PRICE: Do you recall approximately when that was?

THE DEFENDANT: I think that was, um, in '92.

VAL PRICE: Do you know about what month?

THE DEFENDANT: No ideTHE DEFENDANT:

VAL PRICE: And then did you come back from Oregon?

THE DEFENDANT: Yes, sir.

VAL PRICE: Do you know approximately when you came back?

THE DEFENDANT: Sometime in September or October.

VAL PRICE: Were you in school about this period of time?

THE DEFENDANT: No, after I moved to Oregon, I never went to school and then when I came back to Arkansas, I just never started back.

VAL PRICE: When you came back to Arkansas, do you recall how old you were?

THE DEFENDANT: Uh, 17, I think.

VAL PRICE: OK and when is your birth date?

THE DEFENDANT: December 11th, 1974.

VAL PRICE: What name were you born with?

THE DEFENDANT: Michael Wayne Hutchison

VAL PRICE: Who were your natural mother and father?

THE DEFENDANT: Pamela Joyce Hutchison and Edward Joe Hutchison

VAL PRICE: And was there a certain period of time that your father left and then your mom married Jack Echols?

THE DEFENDANT: Yes.

VAL PRICE: And then, was there a time after that that you changed your name?

THE DEFENDANT: Yes.

VAL PRICE: Alright. Why did you change your name.

THE DEFENDANT: Because I was adopted by Jack Echols.

VAL PRICE: OK. So that's why your last name changed. How about your first name?

THE DEFENDANT: First name - at the time of the adoption, I was very involved in the Catholic church, and we were going over different names of the saints. St. Michael's was where I went to church at. And we heard about this guy from the Hawaiian Islands, Father Damian, that took care of lepers until he finally caught the disease his-self and died.

VAL PRICE: Was that the reason you chose "Damien" as your first name?

THE DEFENDANT: Yes, it is.

VAL PRICE: Did the choosing of the name "Damien" have anything to do with any type of horror movies, Satanism, cultism, anything of that nature?

THE DEFENDANT: Nothing whatsoever.

VAL PRICE: OK. Tell the ladies and gentlemen of the jury a little bit about what type of things you enjoy doing as far as your interests and hobbies and things of that nature.

THE DEFENDANT: For a few years, I really enjoyed skateboarding. It was like it was all I lived for, for awhile. Um, I like movies about any types of books, um, talking on the phone, watching TV

VAL PRICE: Did you like to read a great deal?

THE DEFENDANT: Yes.

VAL PRICE: What types of books do you like to read?

THE DEFENDANT: I will read about anything, but my favorites were Stephen King and Dean Koontz and Anne Rice.

VAL PRICE: During the time period in your latter teenage years, did you develop an interest in different types of religious or what beliefs were you studying at this time period?

THE DEFENDANT: I've read about all different types of religions because I've always wondered, like, how do we know we've got the right one, how do we know we're not messing up?

VAL PRICE: Was there - after the - before you were studying about the Catholic religion, was there another religion that you were really concentrating and focusing on?

THE DEFENDANT: No more than the Catholic.

VAL PRICE: After the time period that you were really into the Catholic religion, did you start focusing on another particular religion?

THE DEFENDANT: WiccTHE DEFENDANT:

VAL PRICE: Wicca? Alright. Could you explain to the ladies and gentlemen of the jury what are some principles about the Wicca religion?

THE DEFENDANT: It acknowledges a goddess in a higher regard as a god, because people have always said we're all God's children and men cannot have children. It's basically a close involvement with nature.

VAL PRICE: Did you do a lot of reading about the Wicca religion?

THE DEFENDANT: Yes.

VAL PRICE: What - whose books or - what - whose writings did you read to learn about that?

THE DEFENDANT: The main one, I guess, was Buckland.

VAL PRICE: Do you know what the name of his book is, offhand?

THE DEFENDANT: Uh, I can't remember right now.

VAL PRICE: Approximately what period of time, or if you want to go back from May the Fifth of 1993, what period of time is it that you were really studying about the Wicca religion?

THE DEFENDANT: Probably a year, two years ago, before the murder I started reading about it.

VAL PRICE: OK. I need to ask you about several things that have been introduced as exhibits. Let me gather them up here. OK. There was this exhibit number 123 was introduced today by the State. Take a look at this. Are you familiar with the contents of this notebook?

THE DEFENDANT: Yes, I am.

VAL PRICE: What period of time was it or when was it that you wrote some of the things that are in there?

THE DEFENDANT: Probably from early '91 to early '92.

VAL PRICE: Was there a particular reason why you kept your writings in a book such as that?

THE DEFENDANT: I wrote a lot before and just never saved it, and people started telling me that it was good so I should keep it. So I just started keeping it.

VAL PRICE: Was there a time in school that you had some type of writing project or were supposed to keep a journal?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Was this part of the journal or was this separate from that?

THE DEFENDANT: This right here is like my home journal - I had one for school and one for home.

VAL PRICE: I notice on the inside of the front cover there appears to be a couple quotes there. Could you read each of those to the jury and tell them where they came from?

THE DEFENDANT: "Life is but a walking shadow. It is a tale told by an idiot, full of sound and fury, signifying nothing." That's from "A Midsummer Night's Dream" by William Shakespeare. "Pure black looking clear my work is soon done here. Try getting back from me that which used to be." That is off a Metallica Tape called "...And Justice For All" - talks about how warped the court systems are, stuff like that. The other one is from "The Twilight Zone" - "I've kicked open a lot of doors in my time, and I am willing to wait for this one to open, and when it does, I'll be waiting."

VAL PRICE: On the back of it - on the back in the inside portion - the rest of the writings are in here - did you write all the items in here?

THE DEFENDANT: No, this one right here is lyrics to a tape. Me and Jason, every time one of us would get a tape that the other one didn't have, we would make copies of it for each other and copy the lyrics down, too.

VAL PRICE: Alright

THE DEFENDANT: And that's what this was from.

VAL PRICE: What's the name of that particular song?

THE DEFENDANT: "Fade to Black"

VAL PRICE: And what rock group does that song?

THE DEFENDANT: Metallica

VAL PRICE: Did you like Metallica music?

THE DEFENDANT: Yes.

VAL PRICE: And did you listen to that quite a bit?

THE DEFENDANT: Yes.

VAL PRICE: Were there other times that you would take - listen to other music and write down the lyrics to those music?

THE DEFENDANT: Yes.

VAL PRICE: OK. So as far as the - so the other writings in there, they appear to be - are most in poem type form?

THE DEFENDANT: Yes, sir.

VAL PRICE: Earlier I think there was one of them, and I don't remember which one, that Mr. Fogleman read to the jury. Was that something you wrote?

THE DEFENDANT: That one was mine.

VAL PRICE: Do you remember what - when it was you wrote that in particular or particularly why it was you wrote that?

THE DEFENDANT: Most of these I wrote around the same time period. Most of them were when I was going through one of my manic depressive phases.

VAL PRICE: Now each of the things that were in there are poems - you've written every one of those? Now, did the writings of those poems have anything to do whatsoever with the murders that took place on May the Fifth, 1993?

THE DEFENDANT: No. These were wrote a year or two before any of that ever happened.

VAL PRICE: In addition, the State has introduced some pictures, um, State's Exhibit 114 appears to be a poster of some kind.

THE DEFENDANT: This was from the tape cover of Metallica "Master of Puppets" and we used to make copies of them on copy machines and get them enlarged bigger and just have them for decorations in our rooms.

VAL PRICE: And was that a poster that you had in your room?

THE DEFENDANT: Yes.

VAL PRICE: In addition, there was a, the State has introduced Exhibit 112. This picture right here. Are you familiar with that particular picture?

THE DEFENDANT: Yes, I am.

VAL PRICE: And is that something you had in your room?

THE DEFENDANT: Yes, a couple years ago.

VAL PRICE: Alright.

THE DEFENDANT: I haven't seen it since then.

VAL PRICE: And what is the significance of that particular picture?

THE DEFENDANT: That was gave to me by a girlfriend that I was very fond of at the time.

VAL PRICE: Did it have any particular significance?

THE DEFENDANT: Just as it being from her.

VAL PRICE: As far as - do you know who drew that picture or the meaning or the background or anything of that nature?

THE DEFENDANT: I don't know who drew it or anything, no.

VAL PRICE: Did that ever have anything to do with you being any type of a Satanist?

THE DEFENDANT: No.

VAL PRICE: In addition, the State has introduced another photograph - it looks like a poster - 113. Take a look at that.

THE DEFENDANT: This was the cover to a bootleg Metallica tape that most people didn't even know existed called "Garage Days Revisited" and this was from it.

VAL PRICE: In addition, there was a skull of some kind - it looks like an animal skull - State's Exhibit 116. Are you familiar with this?

THE DEFENDANT: Yes, I am.

VAL PRICE: What is that?

THE DEFENDANT: It was a skull me and my step-dad, Jack Echols, had found and I just thought it was kind of cool. And before he gave it to me, he bleached it out and everything to make sure there wasn't any germs or anything on it. It was a decoration for my room.

VAL PRICE: Did that skull have any type of Satanic meaning?

THE DEFENDANT: No, it did not.

VAL PRICE: Or did it have any type of cult meaning?

THE DEFENDANT: No, it did not.

VAL PRICE: Did it have any type of occult meaning?

THE DEFENDANT: No, and we did not kill this - it was like that when we found it.

VAL PRICE: In addition, the State has introduced State's Exhibit number 111. A photograph - it looks like a - tell the jury what that is.

THE DEFENDANT: It's a picture by an artist called Pusshead, it's by the name he goes by and this was published in "Thrasher" magazine. It's a skateboarding magazine that I used to buy all the time when I used to skateboard.

VAL PRICE: Did that, other than that being a picture, did that have any type of religious significance or cult significance or anything of that nature?

THE DEFENDANT: No.

VAL PRICE: OK. Now I'd like to show you this document here that has been introduced as State's Exhibit 110. Wanna take a look at that. And are you familiar with that booklet?

THE DEFENDANT: Yes, I am.

VAL PRICE: And tell the ladies and gentlemen of the jury what that booklet is.

THE DEFENDANT: This book is, um, is different parts from books that were published all in different books, and I took little parts from each one and copied them down into this one.

VAL PRICE: I notice one of the things - it looks like - it appears to be some kind of cure for worms?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Was that - do you recall what book you got that out of or where that came from?

THE DEFENDANT: I think it was on something during the Salem persecution erTHE DEFENDANT:

VAL PRICE: OK. And I notice there appears to be several different, um, do some of them appear to be like spells of some kind or potions or [?] something of that nature?

THE DEFENDANT: Yes.

VAL PRICE: Besides the writing of those things down in your booklet there, did you ever practice any of those spells?

THE DEFENDANT: Not that I know of.

VAL PRICE: Did you ever use any of that material there to conjure up any evil or anything of that nature?

THE DEFENDANT: No.

VAL PRICE: The State has introduced a picture of that same book with looks like some kind of pin with - looks like - What is the symbol there on the front of that booklet?

THE DEFENDANT: It's a gold skull with wings. It was a Harley Davidson necklace that I had, but I broke the clasp that held the skull to the chain, so I just stuck it to the front of the book.

VAL PRICE: Now what design is in black there on the cover of the book?

THE DEFENDANT: A pentagram pointing up.

VAL PRICE: Is there a particular reason why you drew a pentagram on that book?

THE DEFENDANT: Not really, I don't guess.

VAL PRICE: Did that have any type of Satanic meaning?

THE DEFENDANT: No.

VAL PRICE: In some of the items that you've read, is there a difference between a pentagram with the point up and a pentagram with the point down?

THE DEFENDANT: The one that points up is from the Wicca religion. The one that points down is from Satanism. The one that points up symbolizes a man or a woman with arms and legs outstretched. Uh, Satanism, pointing down, would be a goat's head.

VAL PRICE: In addition the State has introduced, um - can't seem to find it right now - but the book Never On A Broomstick. Are you familiar with that particular book?

THE DEFENDANT: Yes, I am.

VAL PRICE: Where did you get that book, Damien?

THE DEFENDANT: At the library in Crittendon County, Marion.

VAL PRICE: Did they have any type of a book sale?

THE DEFENDANT: Yeah, they - all the books that they were getting tired of, or had for a long time, I guess, they all had them sitting on a rack out front that they were selling them for ten cents each, so I got it.

VAL PRICE: What was the reason you bought that particular book?

THE DEFENDANT: I just thought it was interesting.

VAL PRICE: And did you read that book?

THE DEFENDANT: Yes.

VAL PRICE: There is some - there's a couple of pages in there in particular that have been underlined in red - references to the devil. Did you underline any of those portions in the book?

THE DEFENDANT: No. That was done when I got it. I think it was because somebody had a report to do or something 'cause all during the book there's like little notes, um, certain dates and stuff like from the 1600's in the outside margin.

VAL PRICE: Now was that book - describe what that book was about.

THE DEFENDANT: It was about several different things. It started out, um, different phases that witchcraft, and not just witchcraft - other religions - went through. Also, um, back from the beginning,

like in the 1600's when people were put to death, uh, they were tortured until they confessed to be witches and then they were killed. Then, uh, it had different religions like the druids, things like that. It had a chapter or two on Satanism, the different branches that it was in, um, then part of it, um, I think the last part, was on modern-day witches.

VAL PRICE: So the book...

[TAPE FLIPPED]

THE DEFENDANT: Wicca is also called witchcraft. The word "Wicca" was bastardized. It originally meant "wise one."

VAL PRICE: OK. In addition there has been some testimony about some tattoos. There was one testimony about that you had some kind of tattoo that has a circle with a stick man.

THE DEFENDANT: Yes, sir, I do.

VAL PRICE: Do you have it - what is it and do you have that?

THE DEFENDANT: It's an Egyptian ankh, and I do have it on my chest.

VAL PRICE: And why did you - what is an ankh - what's it stand for?

THE DEFENDANT: It symbolizes eternal life.

VAL PRICE: Why did you have that tattoo put on?

THE DEFENDANT: I just thought it was cool at the time.

VAL PRICE: Did you have another tattoo on your chest?

THE DEFENDANT: Yes, I did.

VAL PRICE: And what was that tattoo?

THE DEFENDANT: A pentagram.

VAL PRICE: Alright. Why did you have a pentagram tattooed on your chest?

THE DEFENDANT: I just thought it was cool.

VAL PRICE: Was the fact that you had a pentagram tattooed on your chest, did that mean at any time you were a Satanist?

THE DEFENDANT: No, it was not a Satanist pentagram. It was pointing up.

VAL PRICE: OK.

THE DEFENDANT: It's faded out now. I don't even have it anymore.

VAL PRICE: In addition, there was a reference about some type of tattoo on - between - I guess the web part of your finger - your hand.

THE DEFENDANT: Yes.

VAL PRICE: Is there, um, did you have some type of tattoo there?

THE DEFENDANT: Yeah, it's still there. It's a cross.

VAL PRICE: And what was the significance of that tattoo?

THE DEFENDANT: There was a lot of people at school who were getting them that year, so...

VAL PRICE: That was - so that was the reason that you got that one. OK. There was also some testimony that you have the word "evil" tattooed on your fingers.

THE DEFENDANT: I used to. It's not there anymore.

VAL PRICE: What was the reason that you had "evil" tattooed on your hand?

THE DEFENDANT: I had this t-shirt, it had a hand holding a hammer. It was for the "...And Justice For All" tape. And across the hand some of the groups of Metallica they have things like, um, "hate," "fear," "evil," things like that, and that was on one of my shirts. And I just kinda thought it was cool, so I did that.

VAL PRICE: OK. One moment, your Honor. Besides - or on - back on June the 3rd, the date that you were arrested and the police executed a search warrant and got the book Never On A Broomstick, did you have other books at your house?

THE DEFENDANT: Yes, I did.

VAL PRICE: What type - were some of those other books other religious type books?

THE DEFENDANT: I'm not sure what they were. I remember different things like Stephen King books, Dean Koontz books,...

VAL PRICE: Did you enjoy Stephen King books?

THE DEFENDANT: Yes, he's my favorite author.

VAL PRICE: Did you read, have you read most of his works?

THE DEFENDANT: I've read all of them.

VAL PRICE: What other types of books did you have there on that occasion?

THE DEFENDANT: Dean Koontz, Anne Rice. Some were just different books that I bought, picked up from different places.

VAL PRICE: Were there some periods of time when you would go through periods where you'd really want to read a book on a certain subject and maybe move on to something else?

THE DEFENDANT: Really, if I would get interested in it, then I would read it and, from what I've read, either get more interest or I would just - I don't like that, and throw it away.

VAL PRICE: Go on to something else, OK. The items that I showed you a few moments ago - this book with the different spells in there, and the couple of pictures, and those items there - Did the Crittenden County - the juvenile's office take those items about a year before the murders took place?

THE DEFENDANT: Yes, they did.

VAL PRICE: Did any of these items - this book - this book right here - any of these pictures - any of this material right here have anything to do whatsoever with the murders that took place on May the 5th, 1993?

THE DEFENDANT: No, they do not.

VAL PRICE: Another fact that's been brought up several times today - or I think the entire trial - has been that you like to wear black. Did you have a preference of what type of color clothing you liked to wear?

THE DEFENDANT: Black.

VAL PRICE: And why was this?

THE DEFENDANT: I was told that I look good in black. And I'm real self-conscious, uh, the way I dress. If I'm not dressed the way I like it will give me headaches because I worry about it all the time. And when I was dressed in black, I didn't really have to worry about it, because I looked the same everyday.

VAL PRICE: Did - how did other people at school look at you because of the way you dressed in black all the time?

THE DEFENDANT: They thought it was kind of weird at first - stayed away. But then, after awhile, a few of them started doing it too, so...

VAL PRICE: OK. Now a lot of them didn't start wearing black all the time. Right?

THE DEFENDANT: Right.

VAL PRICE: OK. As far as, like, when you were in school, were you a very popular type of person?

THE DEFENDANT: Not really.

VAL PRICE: Did the fact that you liked to wear black all the time and - where you different in other ways as well?

THE DEFENDANT: Yes. I've never had a lot of the same interests that other people have like sports, things like that - I've never been into anything like that.

VAL PRICE: Did it - did it help you deal with other people to have people kind of stand-offish and sort of back away from you?

THE DEFENDANT: Yeah, it would make - it was like a defense mechanism - it would make people think like, well, he's weird, I'm not gonna go around him. So it kept people away.

VAL PRICE: Now, did you have, um, was Metallica - was that - did you have a lot of Metallica and other rock and roll type t-shirts?

THE DEFENDANT: I used to.

VAL PRICE: OK. Also there's the - as part of the investigation the West Memphis Police Department did a search warrant on the Crittenden County County Library and they had - the search warrant indicates that there was a book on witchcraft by Cotton Mather, On Witchcraft. Is that a book that you had checked out.

THE DEFENDANT: Yeah, I checked that out.

VAL PRICE: And what was the reason that you checked that book out?

THE DEFENDANT: Just to read it. Most people who were looking at the cover, they would think that it was a witchcraft book, but it was really a anti-witchcraft book. That was wrote by a Puritan minister. It was on different ways that, during the Salem persecution era, they used to find ways to torture people or just keep them locked up until they finally would say, Yeah, I'm a witch and all this, and then they would kill them.

VAL PRICE: Alright. In addition, they - they also, uh, the West Memphis Police Department seized a book on magic. Do you remember checking out a book on magic in the past?

THE DEFENDANT: If it's the one I'm thinking about, yes.

VAL PRICE: What type of magic was that about or do you recall that?

THE DEFENDANT: That was about everything in the history of magic, from like all religions really like Hinduism and Buddhism. Some things from Christianity like exorcisms, things like that.

VAL PRICE: And did you find that an interesting book to read?

THE DEFENDANT: Yes.

VAL PRICE: Now I'd like to kind of go forward some, right about the time in the early part of May. As far as the date May the 5th, 1993, do you recall exactly what happened on that day?

THE DEFENDANT: Not really. I know some of the things I did, but I can't remember any of the times or anything. It's too long ago.

VAL PRICE: As far as - sort of backing up - the general type things you did during that time period. How - what was the typical day like?

THE DEFENDANT: I would get up anywhere between ten 'til one, get dressed, sometimes go to Domini's, sometimes she would come over. After school, I usually went over Jason's house, when he was there.

VAL PRICE: You and Jason Baldwin were best of friends?

THE DEFENDANT: Yes.

VAL PRICE: You recall what other types of things you used to do during that time period?

THE DEFENDANT: We like to walk around a lot just with no place particular in mind. Just start out walking and walk around all day.

VAL PRICE: Did you have a driver's license?

THE DEFENDANT: No.

VAL PRICE: Did you drive - did you ever drive a car.

THE DEFENDANT: No, I did not.

VAL PRICE: Did you walk quite a bit around West Memphis, then?

THE DEFENDANT: Yes, I did.

VAL PRICE: And the different trailer parks there. There's also been some testimony about a black trench coat.

THE DEFENDANT: Yes.

VAL PRICE: Did you have a black trench coat?

THE DEFENDANT: Yes, I've had three of them.

VAL PRICE: And did you wear that quite a bit?

THE DEFENDANT: Yes.

VAL PRICE: There's been some testimony about black boots. The boots that you're wearing today, those have been purchased - had those been purchased after, uh...

THE DEFENDANT: After I was arrested.

VAL PRICE: After you were arrested. OK. Did you have a pair just like that before?

THE DEFENDANT: Exactly like this.

VAL PRICE: OK. Was that the pair that the police department seized during the search warrant?

THE DEFENDANT: Yes

VAL PRICE: Focusing in now on May the 5th. Do you recall the events that took place say in the morning on that day - that Wednesday?

THE DEFENDANT: I remember going up to the doctor's office because an ex stepsister was there.

VAL PRICE: An ex stepsister?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Who, how was - who would that be?

THE DEFENDANT: Carol Ashmore. She's Jack Echols' daughter.

VAL PRICE: OK. Jack Echols. Alright. So she was up there also?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Do you know approximately what time that appointment was?

THE DEFENDANT: No.

VAL PRICE: Some time mid-morning?

THE DEFENDANT: I think it was kind of late morning.

VAL PRICE: Late morning? And you did - did you go to that appointment?

THE DEFENDANT: Yes.

VAL PRICE: Do you recall after the appointment where you went?

THE DEFENDANT: Not really.

VAL PRICE: Do you recall, um, your mom testified about being picked up at the laundromat.

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Around 4 to 4:30 - somewhere in that period of time. Do you recall being with Domini and being picked up by your family?

THE DEFENDANT: Yes.

VAL PRICE: OK. And do you recall the Sanders, there's been some testimony about the Sanders, are they pretty close friends with your parents?

THE DEFENDANT: Yes.

VAL PRICE: Did you all, in fact, live with the Sanders in the past?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Do you - were there many times that you all would go over and see the Sanders?

THE DEFENDANT: Sometimes three or four times a week.

VAL PRICE: Do you recall specifically right now of your own knowledge if on May the 5th that evening you went over to the Sanders'?

THE DEFENDANT: I remember going over there, but I don't know what time it was or anything.

VAL PRICE: OK. Do you recall talking with Officer... Detective Bryn Ridge sometime in the middle part of May and do you remember telling him that you were over at the Sanders' between 3 to 5 PM?

THE DEFENDANT: I might have told him 3 to 5, but I don't remember.

VAL PRICE: When ou went over to the Sanders', do you recall who was over there? Or who wasn't over there?

THE DEFENDANT: I remember the only person there was Jennifer.

VAL PRICE: And is she the eleven-year-old daughter?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Do you recall what she was doing?

THE DEFENDANT: I think she was just laying there, watching TV.

VAL PRICE: Do you remember what show she was watching?

THE DEFENDANT: Not really.

VAL PRICE: And who all went over to they Sanders' at that time?

THE DEFENDANT: Me and my sister and my parents.

VAL PRICE: Do you recall approximately how long you stayed there?

THE DEFENDANT: Just a few minutes. Not long.

VAL PRICE: Did you talk to anybody else there at the Sanders' house?

THE DEFENDANT: Not that I remember.

VAL PRICE: Does anybody live across the street from the Sanders?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Who lives over there?

THE DEFENDANT: I think their last name is McKay, but I'm not sure.

VAL PRICE: OK. Are the McKay's - is Miss McKay Susan Sanders' sister?

THE DEFENDANT: I think so.

VAL PRICE: Is there some kind of relation there?

THE DEFENDANT: I think so.

VAL PRICE: When you all left the Sanders' house, wait, let me just back up a little. Do you recall at some point during the day going and dropping off a prescription at the pharmacy?

THE DEFENDANT: Yes.

VAL PRICE: Do you recall specifically what time you went over to the pharmacy?

THE DEFENDANT: No.

VAL PRICE: Do you recall what time you all - if you picked up the prescription on the 5th or on the 6th?

THE DEFENDANT: I don't remember.

VAL PRICE: Now, after you all left the Sanders, who all was together at that time?

THE DEFENDANT: Just my family - my immediate family.

VAL PRICE: So that would be your mom and Joe and Michelle and yourself?

THE DEFENDANT: Right.

VAL PRICE: And the four of you all left at that time?

THE DEFENDANT: Right.

VAL PRICE: Do you recall where you all went?

THE DEFENDANT: I think we went home.

VAL PRICE: Do you recall going anyplace else besides going home?

THE DEFENDANT: I'm not sure if that's the day we picked up the medicine or not. So I think we just went home.

VAL PRICE: OK. Once you went home do you recall what you did the rest of the night?

THE DEFENDANT: Most of the night I was on the phone.

VAL PRICE: Do you recall who all you talked to that night?

THE DEFENDANT: I think so.

VAL PRICE: Who was that?

THE DEFENDANT: Holly George, Jennifer Bearden, um, Domini Teer, uh, Heather Cliett, I think that's it.

VAL PRICE: Did you and Domini have some kind of an argument?

THE DEFENDANT: I think so.

VAL PRICE: Were you all - were you all dating quite a bit during this time period?

THE DEFENDANT: Yes.

VAL PRICE: How long had you all been dating?

THE DEFENDANT: I think about a year or a year and a half.

VAL PRICE: Prior to dating Domini, did you date Deanna Holcomb?

THE DEFENDANT: Yes, I did.

VAL PRICE: Do you recall what - during how long a time period or when you all broke up? Approximately.

THE DEFENDANT: I think we were together about nine months. I don't know when that...

VAL PRICE: Was that the time period before you all moved and went to Oregon?

THE DEFENDANT: Yes.

VAL PRICE: And besides talking on the telephone on May the 5th, do you remember leaving the house any more times that evening?

THE DEFENDANT: No, I did not.

VAL PRICE: You did not?

THE DEFENDANT: No.

VAL PRICE: OK. On May the 5th, did you kill Michael Moore?

THE DEFENDANT: No, I did not.

VAL PRICE: On May the 5th, did you kill Stevie Branch?

THE DEFENDANT: No, I did not.

VAL PRICE: On May the 5th, did you kill Chris Byers?

THE DEFENDANT: No, I did not.

VAL PRICE: Did you have anything to do with their death whatsoever?

THE DEFENDANT: I'd never even heard of them before 'til I saw it on the news.

VAL PRICE: Did you have any knowledge of who may have killed them?

THE DEFENDANT: No, I do not.

VAL PRICE: Had you ever been to the Robin Hood Woods area?

THE DEFENDANT: No, I have not.

VAL PRICE: When is the first time that you were aware about the missing boys being found?

THE DEFENDANT: I think it was on the 6th. Either the 6th or 7th.

VAL PRICE: Would that have been a TV report or something of that nature?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: As far as the rest of your activities - whatever you did on May the 6th, was that basically what you'd done the other days?

THE DEFENDANT: Pretty much.

VAL PRICE: Do you recall the first time that the West Memphis Police Department came and talked to you about these murders?

THE DEFENDANT: I don't remember the date it was on, but I remember when they came.

VAL PRICE: Was that approximately a day or two days after the bodies were found?

THE DEFENDANT: mm-hmm [yes] I think it was the same day I saw it on the news.

VAL PRICE: You recall - you recall what officer it was or which officers it was that came to see you on that occasion?

THE DEFENDANT: Officer Steve Jones and Officer Sudbury.

VAL PRICE: Was Jones, was he a - formerly - well, was he a juvenile officer?

THE DEFENDANT: Yes.

VAL PRICE: So he knew of you from the past?

A mm-hmm [yes]

VAL PRICE: And had you ever met Lieutenant Sudbury?

THE DEFENDANT: Not before that day.

VAL PRICE: When they were there, did they come to your house or your all's trailer?

THE DEFENDANT: Yes.

VAL PRICE: What did they want to talk about?

THE DEFENDANT: Um, the murders. They just asked me did I know who did it, why did I think they did it, things like that.

VAL PRICE: Did either of those two officers tell you any of the details about the murders on that occasion?

THE DEFENDANT: They weren't real specific or anything, but they said a couple things.

VAL PRICE: Do you recall what they told you on that occasion?

THE DEFENDANT: I remember Steve Jones asked me why would they be in the water. I said, I don't know, I guess they tried to hide them or something. And he said was it possible that they were pushed into the water to flush urine out of their system. Yeah, I guess.

VAL PRICE: Did they tell you any other details about what happened to the bodies or how they died or the condition the bodies were in?

THE DEFENDANT: They asked me how I thought and I heard mutilated, but when I thought of mutilated, I thought it was like all chopped up or something. I figured there wouldn't be like a whole body or anything.

VAL PRICE: Had there been rumors started already about what happened to the boys?

THE DEFENDANT: Yes.

VAL PRICE: Was this something that a lot of people in West Memphis were talking about?

THE DEFENDANT: Everybody was talking about it.

VAL PRICE: Everybody was talking about it. OK. Do you recall if those officers took a picture of you on that day that they came to see you?

THE DEFENDANT: Yes. Yes, they did.

VAL PRICE: Do you recall what you were wearing?

THE DEFENDANT: I was wearing a pair of blue jeans and a tie-died t-shirt.

VAL PRICE: There was a photograph that was introduced earlier about a, with a Portland Trailblazers basketball. Do you recall if you were wearing that?

THE DEFENDANT: No, that was the second time they took a picture.

VAL PRICE: Did they come back on May the 9th and want to talk to you?

THE DEFENDANT: I'm not sure about any of the dates.

VAL PRICE: Alright. Did they come back and talk to you on two other days back to back?

THE DEFENDANT: I think so.

VAL PRICE: Was one of the days about a two-hour time period and another day about an eight-hour time period?

THE DEFENDANT: The eight-hour time period was when they took me to the station. And that was it.

VAL PRICE: So was the two-hour time period, was that like the day before?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: Do you recall what officers talked to you on that occasion?

THE DEFENDANT: Only one I remember is Ridge and I think Sudbury, but I'm not sure.

VAL PRICE: Do you recall a set of 32 questions that you were asked on May the 9th?

THE DEFENDANT: They asked me those twice. Once when they came to my house and then once when I went in.

VAL PRICE: OK. And that was on two different days?

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: So they pretty much asked you the same set of questions two days apart.

THE DEFENDANT: mm-hmm [yes]

VAL PRICE: And were some of those questions having to do with how do you think the boys were killed?

THE DEFENDANT: Yes.

VAL PRICE: Were some of those questions, "Who do you think might have done this?"

THE DEFENDANT: Yes.

VAL PRICE: Did they also ask you some questions, "Where were you between 5:00 and 10:00 P.M. on May the 5th?"

THE DEFENDANT: Yes.

VAL PRICE: On the tenth, do you recall - I think that was the longer period of time. Were you at the police station about eight hours?

THE DEFENDANT: Yes.

VAL PRICE: Do you recall talking to Officer Bryn Ridge and another officer that first two hour time period?

THE DEFENDANT: Yes.

VAL PRICE: Did you hear Officer Ridge testify earlier about conversations that you had with him on that date?

THE DEFENDANT: Yes.

VAL PRICE: During the conversation with Detective Ridge, did you deny any participation in these murders?

THE DEFENDANT: Yes, I did.

VAL PRICE: Did he ask you about some Wiccan beliefs?

THE DEFENDANT: Yes.

VAL PRICE: During the time that Ridge talked to you for that -- well, during the entire time that the West Memphis Police Department talked to you on May 10th, did they ever have a tape recorder running?

THE DEFENDANT: They had one in the office, but they didn't turn it on.

VAL PRICE: Did they ever have you at the conclusion of the interviews look at their notes and have you sign saying, yes, I agree, this is everything I said?

THE DEFENDANT: I don't think so.

VAL PRICE: Do you recall a part of a conversation with Detective Ridge about the significance of water?

THE DEFENDANT: I cannot really remember all of the questions, but I think they did ask that.

VAL PRICE: Did you hear the response that Detective Ridge testified about in court the other day?

THE DEFENDANT: He said water was some kind of demonic force or something like that.

VAL PRICE: Did you tell Officer Ridge that water was a demonic force?

THE DEFENDANT: Most of the questions he asked me were like yes or no questions. When I would say no, he would start, do you suppose, something like that. Yeah, I guess so.

VAL PRICE: Did he ask you a lot of leading questions?

THE DEFENDANT: He asked me "Do you think one of the kids was hurt worse than the rest of them?" "Yeah, I guess."

VAL PRICE: Did you ever have any independent knowledge of any of the details of what happened to the boys?

THE DEFENDANT: Just what was public knowledge on TV.

VAL PRICE: Was there also by this time -- the newspaper articles -- were there articles in the West Memphis paper and the Commercial Appeal every day about the murders?

THE DEFENDANT: Yes.

VAL PRICE: Was this a topic that everybody was talking about?

THE DEFENDANT: Um-hum.

VAL PRICE: After talking with Ridge, do you recall talking to Detective Durham?

THE DEFENDANT: Yes.

VAL PRICE: During the conversation with Detective Durham, did you deny your involvement or any -- let me correct that. Did you deny any involvement with the murders --

DAVIS: Your Honor, at this time, we've let this go on for a while with leading question after leading question. This is his witness. This witness can testify. Mr. Price is leading. We object.

PRICE: Judge, I'm entitled to ask this witness about questions --

THE COURT: - Avoid leading. Let him supply the answer.

BY PRICE:

VAL PRICE: Do you recall what type of questions that Durham asked you during your interview?

THE DEFENDANT: I think so.

VAL PRICE: What were some of the questions dealing with the murder that he asked you about?

THE DEFENDANT: Mostly they were just variations of the 32 questions. They would just change a couple of words or something.

VAL PRICE: Do you recall what your answers were during the time you talked with him?

THE DEFENDANT: Not my exact wording, but I know pretty much what I said.

VAL PRICE: There was -- do you recall Detective Ridge testifying that you made some comment to him about, "I will tell you everything I know if you let me talk to my mother."

THE DEFENDANT: Yes.

VAL PRICE: Did you tell him that?

THE DEFENDANT: Yes.

VAL PRICE: Did you talk to your mother?

THE DEFENDANT: Yes, I did.

VAL PRICE: Why did you give that response to him?

THE DEFENDANT: Because that's the only way he would let me talk to my mother. They kept asking me, saying, "Even if you did not do it, we know that you know something about it." So I said, "I will tell you everything I know after you let me talk to my mom." After I talked to my mom, he said, "All right, now tell us everything you know." I said, "I don't know nothing," and they got mad.

VAL PRICE: Did he get mad at you based on that response?

THE DEFENDANT: Yes

VAL PRICE: Did he ask you, what were you afraid of?

THE DEFENDANT: Yes.

VAL PRICE: Do you recall what you answer was?

THE DEFENDANT: No.

VAL PRICE: Do you recall looking at the one page sheet summarizing the two hour conversation that says he asked you what were you afraid of and you said, "The electric chair"?

THE DEFENDANT: I said that?

VAL PRICE: That's on the sheet that he has. Did you ever tell him you were afraid of the electric chair?

THE DEFENDANT: I don't remember saying that.

VAL PRICE: Did Officer Durham let you look at any notes he was taking to write down your name and confirm, yes, this is what I told you on this date?

THE DEFENDANT: No, he did not.

VAL PRICE: After talking with Durham, did they have any other officers that wanted to talk with you?

THE DEFENDANT: About the whole police department came in one at a time.

VAL PRICE: Do you recall what answers you were giving during the last part of your interrogation?

THE DEFENDANT: I don't know the exact words, but I know pretty much what I said.

VAL PRICE: Pretty much tell the jury what you said in this part.

THE DEFENDANT: They asked me if I had anything to do with the murders and I told them, no, I did not. They asked me did I know anybody that had anything to with the murders. I told them, no, I did not. They didn't like that so they kept asking it over again and again.

VAL PRICE: Between that date which would have been May the 10th and the date you were arrested was June the third, did the police ever come back and talk to you any other times?

THE DEFENDANT: No, I think that was the last time before they arrested me.

VAL PRICE: There's been some testimony today about -- did you ever during this time period go to a girl's club softball game?

THE DEFENDANT: Yes, I did.

VAL PRICE: Do you recall during this time period between May the 5th and June the third how many times you went there?

THE DEFENDANT: Once.

VAL PRICE: Do you recall -- there was some testimony about a conversation that you had with a bunch of people. Do you recall that conversation?

THE DEFENDANT: I was there with a bunch of people, but we never discussed the murders.

VAL PRICE: Is it your testimony you never discussed the murders?

THE DEFENDANT: Not with anybody at a softball game.

VAL PRICE: Did you discuss the murders with anybody else?

THE DEFENDANT: Yeah, me and Jason talked about it.

VAL PRICE: How did y'all talk about it?

THE DEFENDANT: We just wondered why they were wanting us so bad, why they kept questioning us over and over again.

VAL PRICE: During this investigation, has the police department gotten blood samples from you?

THE DEFENDANT: Yes. Twice.

VAL PRICE: Have they gotten hair samples?

THE DEFENDANT: Twice.

VAL PRICE: Have they taken your fingerprints?

THE DEFENDANT: Five or six times.

VAL PRICE: Have they taken -- you testified earlier they took your boots into possession. Did they take your barefoot print impressions?

THE DEFENDANT: Yes, they did.

VAL PRICE: Another question going back to a topic we talked about earlier, you did have a black trench coat?

THE DEFENDANT: Yes.

VAL PRICE: Do you recall where the black trench coat is now?

THE DEFENDANT: I think my parents have it now.

VAL PRICE: When is the last time you saw it?

THE DEFENDANT: The night I was arrested.

VAL PRICE: Do you recall where it was?

THE DEFENDANT: It was laying in the floor whenever the police came.

VAL PRICE: Were you there when the police seized items from your house?

THE DEFENDANT: Just the first few minutes.

VAL PRICE: Do you recall what type items the police were taking from your house?

THE DEFENDANT: I never saw any specific items they took.

VAL PRICE: Did you have a chance yesterday -- you heard Dale Griffis testify?

THE DEFENDANT: Yes.

VAL PRICE: As far as the ideas he was talking about, as far as the things he was testifying to about yesterday, what did you think about the way he was trying to explain that material?

THE DEFENDANT: Some of it was okay, but he didn't stop to differentiate between different groups. He just lumped them all together into one big group that he called cults.

VAL PRICE: Were there some of the things that he was talking about, I think he testified about water having some type of significance?

THE DEFENDANT: (NODS HEAD)

VAL PRICE: In some of the things you have read does water have some type of significance?

THE DEFENDANT: I have never heard of it like a demonic force like Ridge did. I heard about it as a giver of life because all things need water to survive. Nothing can live without water.

VAL PRICE: Did you ever tell Ridge that water was a demonic force?

THE DEFENDANT: When he was asking me, I probably said yeah.

VAL PRICE: Was that the time he was asking you leading questions?

THE DEFENDANT: When they was asking me the 32.

VAL PRICE: The 32 questions?

THE DEFENDANT: Um-hum.

VAL PRICE: Several of those questions were religious questions, weren't they?

THE DEFENDANT: Um-hum.

VAL PRICE: As far as several things that Griffis was talking about yesterday about satanism beliefs, are there any of those things that he was talking about that are your personal beliefs?

THE DEFENDANT: Not really my personal beliefs. Some things I might have in common.

VAL PRICE: For example.

THE DEFENDANT: Some satanists may be arrogant, conceited, self-important. I might be that, but I'm not a satanist. I don't believe in human sacrifices or anything like that.

VAL PRICE: Have you ever participated in any type of human sacrifice?

THE DEFENDANT: No, I have not.

VAL PRICE: There's been a great deal of testimony about certain types of knives. Did you ever have a knife collection?

THE DEFENDANT: Yes.

VAL PRICE: When and where did you have a knife collection?

THE DEFENDANT: I've been buying knives for a long time. I had one in Arkansas, but it wasn't anything important, two or three knives. And then when I went to Oregon, I started buying them a lot when I was working up there. They had this knife shop, and I used to go up there all the time. Then when I moved back to Arkansas, they were still there with my parents. I didn't bring them back with me.

VAL PRICE: There's been a great deal of testimony about State's Exhibit 77. Have you ever seen this particular knife until it was introduced into evidence at this trial?

THE DEFENDANT: Not that knife, no.

VAL PRICE: Have you seen a knife similar to this knife?

THE DEFENDANT: I had one sort of like that, but mine didn't have a black handle. The handle on mine was camouflaged, and it had the camouflage case and everything. The blade on mine was black. It wasn't silver like that.

VAL PRICE: Do you know what happened to that knife that you had?

THE DEFENDANT: I had a bunch of those. I don't know whatever happened to them. They were like real cheap. I used to buy them all the time.

VAL PRICE: Were they -- knives similar to these -- were they called Rambo knives?

THE DEFENDANT: Um-hum.

VAL PRICE: Was that a Rambo type knife, the one that you had?

THE DEFENDANT: Um-hum.

VAL PRICE: Specifically, did you ever see Jason Baldwin with that knife that I just showed you?

THE DEFENDANT: Not that one, no.

VAL PRICE: Did he have something similar?

THE DEFENDANT: Sort of, but it didn't have a jagged edge like that. It was straight and in the middle of the handle there was a little purple -- I don't know what you call it -- it was sort of like a diamond or ruby or something in the handle of it.

VAL PRICE: You have been in jail almost nine, ten months now?

THE DEFENDANT: (NODS HEAD)

VAL PRICE: Obviously you're aware that you have been charged with these three murders?

THE DEFENDANT: (NODS HEAD)

VAL PRICE: How have you felt being charged with these three murders?

DAVIS: Your Honor, at this point in time -- this is totally irrelevant. How he feels about being charged with murder doesn't have anything to do with whether he's guilty or innocent. Mr. Price knows that.

PRICE: Your Honor, the feelings of the defendant are certainly relevant. The State has made

motive an issue in this case. I'm certainly entitled to ask my client his feelings. Feelings certainly go to motive, and this is a question I'm entitled to ask my client.

DAVIS: Your Honor --

PRICE: -- if Mr. Davis wants to ask him --

THE COURT: -- Wait a minute. Go ahead.

DAVIS: Excuse me. His feelings at this point in time don't have a thing to do with the motive for his conduct at the time that these murders were committed. His feelings at this point in time are totally irrelevant to the issues in this case which are whether or not he committed a premeditated murder on three eight-year-old boys.

DAVIDSON: Your Honor, his feelings two years ahead of time -- those were relevant, they thought. Two years ahead of time is when he wrote that stuff.

THE COURT: Go ahead and ask him. Overruled.

BY PRICE:

VAL PRICE: Damien, how have you felt the past year being charged with these three murders?

THE DEFENDANT: Different ways on different days, I guess.

VAL PRICE: Tell the jury the different ways.

THE DEFENDANT: Sometimes angry when I see stuff on TV. Sometimes sad. Um, sometimes scared.

VAL PRICE: There has been a reference made at one time that you licked your lips after a earlier proceeding in this case.

THE DEFENDANT: That is when I went to court in one of the other places. I can't remember which place it was. I do stuff like that sometimes. I guess I just lost my temper because it was like when I went outside, everybody was out there, standing there calling me names, screaming at me, things like that. And I guess it just made me upset when I did that.

VAL PRICE: Did you kill any of these three boys?

THE DEFENDANT: No, I did not.

March 10, 1994

JONESBORO, ARKANSAS, MARCH 10, 1994 at 9:30 THE DEFENDANT: M.

THE COURT: All right. Are you all ready to proceed?

DAVIS: Yes, your Honor. May we approach the bench?

THE COURT: All right.

(The following conference was held at the bench.)

DAVIS: Your Honor, it's the State's position, we want to advise the Court that after having reviewed Rule 17.1 that we acknowledge the failure to give those documents to the defendant yesterday was a violation of that particular rule. The State at this time, having acknowledged that, it is the State's position that there are a number of options available to the Court in the way of sanctions for that. Number 1 to keep that evidence out, I mean, not allow the introduction of the particular documents, and also, I think Mr. Ford has requested an admonishment to the jury that that's only to be in regard to Mr. Echols which I think is more appropriate.

THE COURT: I have already given that and will give that again.

DAVIS: Which I think is appropriate.

FORD: That satisfies us, your Honor.

DAVIS: And we can assure the Court that there are no other documents or anything like that. In fact, we went back through everything to make sure that anything we might have that we provided copies this morning. It was an inadvertent oversight on our part as far as not providing those to the defense, and it's - we request that the Court make a determination as to whether there has been any prejudice caused by that. It is the State's position that, in fact, there, number 1, it went to the sole issue of motive. And number 2, that in going to the issue of motive, it is for cross-examination. And had we provided a copy of that to defense counsel, we would still have been able to use it in cross-examination and might have even been able to introduce it at that point. And the Court's action can remedy that by keeping that particular document out.

PRICE: Judge, it is our position that anything that my client might have written down after the murder would not have anything to do with the motive that he may have had prior to the murders. The fact

that he has a piece of paper with his name written, Mr. Baldwin's name written, Alister Crowley's name written, and his son's name written has certainly no value, no relevance as to issue of motive.

THE COURT: It is going to be my finding that the failure to deliver the document prior to cross-examination technically violated the Rule 17, although the State probably would have been allowed to utilize that had they informed you. I am going to find that there is no prejudice, and then I am going to continue to sustain your objection and not allow the introduction of the document itself. All right.

FORD: Your Honor, when the jury returns, will you give a precautionary instruction?

THE COURT: I will give a -- well, I mean, the State has acknowledged that the testimony of Mr. Echols should be considered only as to Mr. Echols, and I can't really say that either because --

FORD: No, because the State is asking him questions in an effort to make some link between the two.

THE COURT: There are similar links that probably could be drawn, but at what point I --

FORD: I agree that there are some links that they could -- I think are proper cross-examination once Mr. Echols is up there.

THE COURT: I am going to say with regard to the document, the jail-house documents, that they do not relate to Mr. Baldwin and give the admonition.

FORD: This is the instruction we are agreeable to.

FOGLEMAN: Your Honor, I would like to add for the record, as Mr. Price indicated, the document in question, it probably ought to be made a part of the record.

DAVIS: Yes.

THE COURT: All right. We will make it a proffer -- or proffer of proof and not for the benefit of the jury. I did sustain the objection. (State's Exhibit No. 300 was marked for identification and proffered into evidence)

FOGLEMAN: Right, I understand that. But I just wanted to add for the record that because since it was just a series of names, at the time, I certainly didn't realize the significance. At first when I saw the code down at the bottom, I thought it might be really something like a confession in code or something. But I think it is just alphabet down at the bottom. And I didn't see the significance, and I don't think Mr. Davis did until the Crowley name came into it.

FORD: Your Honor, at this time, since we are taking up arguments, we would again renew our motion for severance now that Mr. Echols has taken the stand. It was our position the entire time that Mr. Baldwin would not take the stand, and now that Mr. Echols has taken the stand, his failure to take the stand can be viewed in a different manner. And there has been case law that indicates where one codefendant takes a stand, it in essence forces -- it can be seen as forcing the other defendant to take the stand because of the prejudice that can be drawn from his failure to take the stand when one does. As a result of that, your Honor, with the other factors that have previously been raised when that one now becomes an additional factor which was unbeknownst to the Court until it actually occurs, we would renew our motion for severance.

THE COURT: I am going to deny the motion for severance again.

FOGLEMAN: Your Honor, there are -- we are offering two sheets, but the record should show that only the front sheet was referred to.

THE COURT: That is correct. The record will so reflect.

DAVIS: Number 1 and 2.

THE COURT: Make sure it shows a proffer of proof for the State and the Court sustained the objection to the document being submitted to the jury. No objection was made by either side as to the question referred to, and the record will reflect that the testimony will stand, but the document will not be received.

PRICE: Thank you, your Honor.

(RETURN TO OPEN COURT)

DAVIS: Judge, there is a document, and I am not sure as to the date of this document, but it was from the juvenile file of Damien Echols regarding --

THE COURT: Is this the order?

DAVIS: No, sir, this is -- and I was wanting to cross-examine him regarding some of the information contained in there. And I want to be sure before I do it so that we don't delay things any longer. I think that was obtained through a court order just in general.

FOGLEMAN: Your Honor, the record should reflect that it does involve medical records.

THE COURT: Do you have something to add?

DAVIDSON: Yes, your Honor, we certainly object to the prosecutor's question regarding this document. For one reason, we say that it is too old of an incident in that it happened over a year ago and no connection with Damien Echols anytime near the murders. Also, we would say that this is under 404-B, that other crimes, wrongs or acts, evidence of other crimes, wrongs or acts is not admissible to prove the character of the person in order to show that he acted in conformity therewith. All they are trying to do is to bring this in in order to prejudice the jury. There has been no testimony that he has done anything alleged in there in connection with this case. Maybe if it had been Jason Baldwin, it would be a different situation. But there certainly has not been anything with regard to Damien Echols in that regard. We also say that this does not prove motive because there has been no testimony to say that he was been involved in that sort of activity, does not prove motive, opportunity, attempt, preparation, plan, knowledge, identity, are absent. So, therefore, your Honor, we would say that it would be under just regular 403 -- it would be more prejudicial than probative -- and say that they should not be able to question him regarding this.

DAVIS: Judge, where we think the relevance lies is that the defendant took the stand yesterday and presented a calm, very placid demeanor on the witness stand. He indicated that he was on medication at the time he testified. This particular incident allegedly occurred where he sucked the blood out of an injury of a fellow inmate, and it occurred when he was allegedly off his medication. My intended line of questioning is going to be his reaction to, how he reacts when he is on medication versus when he is off.

THE COURT: I will allow that.

DAVIS: And this is an example of how he acts.

DAVIDSON: I don't think you can bring that in as a prior bad act to show that he acted in conformity therewith.

THE COURT: No, I will give a cautionary instruction that it is offered -- it might go to something other than to motive.

PRICE: Judge, the State has no evidence that my client was off any kind of medication. They have no evidence that medication was taken, on whatever date this is, is the same medication he was taking on May 5.

FORD: It's hearsay. The statement says he was on medication is hearsay.

THE COURT: Sure. It is hearsay. Thestatement itself obviously is hearsay. But yeah, I think he can be permitted to inquire of the defendant since he has taken the stand about his -- I am assuming that was while he has been in jail?

PRICE: No, sir. This was a year before the murder, Judge.

DAVIS: Prior incident.

DAVIDSON: Prior act, prior bad act.

PRICE: This is not even since he has been in -- the past year since he has been in jail. This is a year prior to that, at least to the date itself is long before it.

DAVIDSON: Again, we would also renew the fact that this came out of his juvenile record.

DAVIS: Your Honor, I think it is important that the jury realize that the demeanor of the person they see on the witness stand is the demeanor of a person that is under medication and that his demeanor

while not on that medication can change. Whether or not he was on medication on May the 5th is a fact issue for the jury to determine.

THE COURT: I am going to allow you to inquire into the medication, how his conduct may alter when he is not on it.

PRICE: Even though we are not arguing -- we have not argued any type of insanity in this case, your Honor. It is the State that doesn't want it.

THE COURT: You interjected that he was a manic depressive.

PRICE: No sir, the State did that by their question.

THE COURT: I think he volunteered it under cross-examination that he was taking some type of medication. I am going to allow you to inquire into his mood swings. I think you probably need to stay away from something that happened a year ago, though.

PRICE: What was the last comment, your Honor?

THE COURT: I am going to allow the State to inquire into mood swings.

PRICE: But you said to stay away something that happened a year ago. Then that means they can't use this, Judge. This happened a year prior to the murders.

DAVIS: The question I have is if he gets on the witness stand and says, "I am no different when I am off my medication than when I am on it."

THE COURT: Then perhaps you might be able to impeach him with that. So, I mean, it just depends on how it develops whether I will allow that. Right now, I am not going to allow it.

PRICE: Judge, this report would be extrinsic evidence and you can't impeach anybody on collateral --

THE COURT: I am not going to allow the report to be introduced under any circumstances. Whatever his answers are, they will be bound by them.

PRICE: Will the court be limiting the State to the time on this incident because this report doesn't even have a time to it? It could be '92, could be '91, Judge.

THE COURT: The time certainly is a factor that I consider. I am not sure that a year is that remote. However, I have given my thoughts on it that that issue stay away from that inquiry at this time. Okay?

MR. PRICE: All right.

THE COURT: All right, call the jury back in.

(jury in the box.)

THE COURT: Mr. Echols, you will need to go back to the witness stand. All right, ladies and gentlemen, just before we adjourned for the evening yesterday, you had received some evidence relative to some writings that had come from the jail. You are to consider that evidence only in relation to the defendant Damien Echols and not as to Jason Baldwin. All right, you may proceed.

CROSS EXAMINATION
BY MR. DAVIS:
DAVIS: Mr. Echols, I'm going to ask you questions and like I have told other witnesses, if you don't understand, you ask me to rephrase them and I'll be glad to do so.
THE DEFENDANT: (NODS HEAD)
DAVIS: First of all, let me ask you, are you taking any medication at this time?
THE DEFENDANT: Yes, sir.
DAVIS: What type of medication are you taking?
THE DEFENDANT: I'm on Imipramine. It's for manic depression.
DAVIS: Does it have a calming effect? Does it sedate you to some extent?
THE DEFENDANT: Makes you sleepy.
DAVIS: You're on that medication today, is that right?
THE DEFENDANT: Yes.

DAVIS: Your girlfriend's name is what?

THE DEFENDANT: Domini Teer.

DAVIS: She is related to the Hollingsworths who testified here in court?

THE DEFENDANT: Yes, by marriage.

DAVIS: In fact those people, Narlene and Anthony, are familiar with Domini. They are related. You would acknowledge that?

THE DEFENDANT: Yes, sir.

DAVIS: And you would agree that her description -- she's very thin and red headed, correct?

THE DEFENDANT: Yes, sir.

DAVIS: And you have, as you describe, a very distinctive look about you, true?

THE DEFENDANT: True.

DAVIS: We have heard witness after witness say, when I see him, I know who I'm looking at.

THE DEFENDANT: Yes, sir.

DAVIS: And you would not deny that?

THE DEFENDANT: Not at all.

DAVIS: Have you seen to your knowledge Narlene Hollingsworth before?

THE DEFENDANT: Yes, I have.

DAVIS: And she's seen you before, right?

THE DEFENDANT: Yes.

DAVIS: And she knew that you dated and saw Domini, correct?

THE DEFENDANT: Yes.

DAVIS: And you have heard her testify in this court under her oath that on that night she came off that service road, she flashed her bright lights and there was you and Domini Teer right there on the service road down from the Blue Beacon. You heard that testimony?

THE DEFENDANT: Yes, sir.

DAVIS: Do you know any reason why she would make up that story?

THE DEFENDANT: Maybe she thought she did.

DAVIS: Her son that was there -- he is also -- Anthony is also related to Domini, right?

THE DEFENDANT: Yes.

DAVIS: And he is also -- have you seen him? Are you familiar with him?

THE DEFENDANT: Yes.

DAVIS: And he was also in the car and he was absolutely certain -- you heard him testify -- that he saw you there that night?

THE DEFENDANT: (NODS HEAD)

DAVIS: Correct?

THE DEFENDANT: Yes, sir.

DAVIS: Do you recall what you did the night before the 5th?

THE DEFENDANT: I was either at my parents' house or Domini's house. I think it was my parents because I had a doctor's appointment.

DAVIS: You have indicated that you have a problem with your memory as far as specific times?

THE DEFENDANT: Uh-hum.

DAVIS: Your mother testified that when you were down at the police station, one of the things she told you was, we've got some alibis, correct?

THE DEFENDANT: Yes.

DAVIS: She's testified that the same day the police talked to you, or maybe it was your sister, that that is when you first started discussing among the family about the details of those alibis, correct?

THE DEFENDANT: Yes sir.

DAVIS: When the police talk with you on the tenth, at that point in time you tell them from 3:00 to 5:00 is when you think you were at the Sanders', is that right?

THE DEFENDANT: I probably told him that then.

DAVIS: That was about five days after the boys had turned up missing that you told him it was around 3:00 to 5:00?

THE DEFENDANT: I probably told him that if it's in the report.

DAVIS: When your mom tells him something, it is about five to six or five to six-thirty, okay?

THE DEFENDANT: (NODS HEAD)

DAVIS: As time moves on and the time period that is in question becomes later that evening, the visit to the Sanders' becomes later that evening, correct?

THE DEFENDANT: Yes, sir.

DAVIS: So the story kind of changes to fit the facts we need to cover, right?

THE DEFENDANT: Yes, sir.

DAVIS: You have talked about -- Mr. Price went on and on about this book with the upside down crosses, all this insignia and the trappings of satanic beliefs and this photograph with the person up on the alter with the goat's head -- is that white magic type stuff?

THE DEFENDANT: No, sir.

DAVIS: And you had this framed and hanging in your room, right?

THE DEFENDANT: Right.

DAVIS: You're pretty knowledgeable about this stuff. You would not accidentally put some black magic picture on the wall, would you?

THE DEFENDANT: No. The reason I had it on the wall was because it was a present.

DAVIS: Who gave you that?

THE DEFENDANT: Deanna Holcomb.

DAVIS: After that, you studied and looked into the satanic side of the occult, correct?

THE DEFENDANT: Um-hum.

DAVIS: And you were familiar with it, right?

THE DEFENDANT: I'm familiar with about every aspect of it.

DAVIS: You're familiar with a fellow named Alister Crowley?

THE DEFENDANT: I know who he is.

DAVIS: He is a guy who kindly professes -- he is a noted author in the field of satanic worship, right?

THE DEFENDANT: I know who he is, but I have never saw any of his books personally.

DAVIS: Not much of a follower of his?

THE DEFENDANT: I would have read them if I had saw them.

DAVIS: But Alister Crowley is a guy that based on his writings believes in human sacrifice, doesn't he?

THE DEFENDANT: He also believed he was God so --

DAVIS: He also had writings that indicated that children were the best type of human sacrifice, right?

THE DEFENDANT: Yes, sir.

DAVIS: But Alister Crowley doesn't have any particular significance to you?

THE DEFENDANT: I know who he is. I have read a little bit about him, but I have never read anything by him.

DAVIS: Let me show you a copy of some documents. Do you recognize that?

THE DEFENDANT: Yes.

DAVIS: What is that?

THE DEFENDANT: It was this paper I had on different alphabets or like translations where you could write things that nobody could read. This was one of the forms.

DAVIS: Where did you have that at? When did you do that?

THE DEFENDANT: Sometime before I was arrested I guess.

DAVIS: Are you sure you have not done those since you were arrested while you've been staying in the jail?

THE DEFENDANT: I don't know. I might have.

DAVIS: What kind of -- is that alphabet up there -- is that some sort of Wiccan alphabet?

THE DEFENDANT: I don't remember in particular what this one is.

DAVIS: Whose names are written on that document?

THE DEFENDANT: Mine, Jason's, my son's, one that says Alister Crowley --

DAVIS: Who?

THE DEFENDANT: Alister Crowley.

DAVIS: This is a document that you have written while you have been waiting in jail for trial, right?

THE DEFENDANT: If you say so.

DAVIS: Well, you wrote it. That's your writing, correct?

THE DEFENDANT: Um-hum.

DAVIS: Do you recall when you wrote it?

THE DEFENDANT: Not really. There's five more that I don't know what is there.

DAVIS: What you were doing is writing out various names in different type alphabets, correct?

THE DEFENDANT: From the way it looks here, I was practicing trying to memorize them.

DAVIS: One of the names that you picked out to write about was this fellow named Alister Crowley?

THE DEFENDANT: Um-hum.

DAVIS: Is that just a total coincidence? You just pulled his name out of the air?

THE DEFENDANT: It is the same book that I had with the different alphabets and it also had stuff about him.

DAVIS: Did you have the book out there at the time you were doing this?

THE DEFENDANT: This is from what I remembered myself. I was practicing, trying to memorize, getting it all in my head.

DAVIS: So you were going over it working on it in your head and at that point in time you write all this down from memory?

THE DEFENDANT: Um-hum.

DAVIS: Had you studied Alister's book pretty carefully?

THE DEFENDANT: Never any book by him in particular. I have never saw any of his.

DAVIS: Now, the two little girls that got up here and testified this morning said that they saw you out at the softball park, right?

THE DEFENDANT: (NODS HEAD)

DAVIS: How many times have you been there?

THE DEFENDANT: Once.

DAVIS: Were you there the next night?

THE DEFENDANT: No, I was not.

DAVIS: So you're saying that they weren't honest about that?

THE DEFENDANT: Yes, I am.

DAVIS: Admittedly you have indicated that you kind of stand out in a crowd?

THE DEFENDANT: Yes.

DAVIS: You're saying that those girls, the girl that testified that she saw you the next night, too, was she not telling the truth about that?

THE DEFENDANT: No, she's not.

DAVIS: And this other defendant Jason Baldwin was out there with you?

THE DEFENDANT: The one night I was there, yes.

DAVIS: When you were there, was there a group of people standing around?

THE DEFENDANT: Some people that I knew.

DAVIS: You know any reason why that girl would come into court and under her oath swear that you --

PRICE: Judge, that is an objectionable question. That is a totally improper question. the defendant is not required to disprove anything. The State has to prove the elements of the crime and the defendant has to prove nothing.

DAVIS: Your Honor, once he takes the witness stand, I have the right to cross examine him and if he's up here giving testimony that indicates that witnesses that the State put on are lying, I have a right to ask him if he knows any motivation for our witnesses to lie.

PRICE: That's an improper question, Judge. the defendant is not required to disprove the State's case. The state has to prove their case, and we object.

THE COURT: I'm going to allow you to ask him -- maybe not in the form that you asked him -- but I'm going to allow you to ask him if he knows of any reason why they would have some prejudice or bias toward him.

DAVIS: Do you know why the VanVickle girl would get up here and have any reason to fabricate a story under oath about you?

THE DEFENDANT: There have been Damien sightings since I can remember. People were calling the police department saying they saw me marching around through Marion carrying black candles while I was all the way on the other side of the country.

DAVIS: We aren't talking about a fake sighting.

THE DEFENDANT: It is the same principle. It was a fake sighting.

DAVIS: You were there, right?

THE DEFENDANT: The second night I was not.

DAVIS: But the first night is when she said you made the statement. You were there that night, right?

THE DEFENDANT: Yes.

DAVIS: And your group was standing around you?

THE DEFENDANT: Um-hum.

DAVIS: You had on the big black coat and long black hair?

THE DEFENDANT: Um-hum.

DAVIS: And Jason was there?

THE DEFENDANT: Um-hum.

DAVIS: She's right about all those things, correct?

THE DEFENDANT: Yes.

DAVIS: You don't know why in the world she would get up here and under oath testify that you said those things?

THE DEFENDANT: Little kids say that kind of stuff all the time to get attention.

DAVIS: Do you know any reason why the one who was a little older, the Medford girl, would say that?

THE DEFENDANT: Probably because she mentioned something like that to her mom or something, and her mom carried it too far so she had no other choice than to get up here and talk about it.

DAVIS: I guess Ms. Medford -- do you have any reason to know why she would get up here and give that testimony under oath?

THE DEFENDANT: Because her daughters probably did tell her that.

DAVIS: Mr. Price asked you a lot of questions about May 5th and you indicated that you cannot remember times, is that correct?

THE DEFENDANT: Right.

DAVIS: And you aren't sure even where you spent the night or on the fourth or the fifth -- or the sixth, I mean.

THE DEFENDANT: No.

DAVIS: Do you know where you spent the night on the third?

THE DEFENDANT: Either at Domini's or at my parents'.

DAVIS: But the truth of the matter is y'all didn't sit down and try to discuss the details and try to discuss these alibis about those other dates, did you?

THE DEFENDANT: They never really discussed it with me. They just said, well, we know you were here so we know they can't prove anything because we know you didn't do it.

DAVIS: Have you talked with them about the specifics of their testimony?

THE DEFENDANT: Not since I've been arrested.

DAVIS: You have not discussed it at all?

THE DEFENDANT: (SHAKES HEAD)

DAVIS: Have you discussed it with Mr. Lax, the private investigator they hired? Has he provided you any details about what witnesses were saying?

THE DEFENDANT: Not really theirs. Mostly mine.

DAVIS: He came in to tell you about what you were going to say?

THE DEFENDANT: No. He was asking me what did I tell the police, what times, things like that. I can't remember now. That was a year ago.

DAVIS: You are testifying under oath that Mr. Lax has not sat down and discussed with you testimony of other witnesses?

THE DEFENDANT: Not what they were going to say, but like who was going to testify, things like that.

DAVIS: You're saying that he has not gone over with you the details and facts of what witnesses were going to say?

THE DEFENDANT: No. Not what they were going to say.

DAVIS: What about the attorneys? Have they sat down and discussed with you details and facts about what was going to be said?

THE DEFENDANT: Not of what nobody was going to say.

DAVIS: So nobody prior to this trial has discussed with you the details of the facts that they expected to hear in testimony from other witnesses?

THE DEFENDANT: Just that they were going to get up and testify, not what they were going to say.

DAVIS: So all they told you is Joe Blow is going to testify but never discussed any of the details of his testimony?

THE DEFENDANT: Not really, just what they knew about that.

DAVIS: And that statement is as true and correct as everything else you have testified to under oath here today?

THE DEFENDANT: I have not lied about a single thing --

DAVIS: -- Is that statement that you just gave me that you haven't discussed this -- is that as true and correct as everything else you have testified to here today?

THE DEFENDANT: Yes, it is.

DAVIS: You said that you used to walk around West Memphis all the time?

THE DEFENDANT: Um-hum.

DAVIS: Did you and Jason walk around West Memphis?

THE DEFENDANT: Um-hum.

DAVIS: Did you walk in the area where the boys were found?

THE DEFENDANT: Mostly where we walked was around Wal-Mart, Krogers.

DAVIS: Had you been in the neighborhood near where Robin Hood Hills was in that residential area -- had you and Jason walked in that neighborhood on a frequent basis?

THE DEFENDANT: No.

DAVIS: Had you ever been in that neighborhood walking with Jason?

THE DEFENDANT: Not walking with Jason, but I used to live over there when I was young.

DAVIS: How long ago would that have been?

THE DEFENDANT: When I was in kindergarten.

DAVIS: In the year prior to your arrest had you and Jason or you and anyone else on more than one occasion walked around in that neighborhood near Robin Hood Hills?

THE DEFENDANT: No.

DAVIS: That's also as true as everything else you have told us?

THE DEFENDANT: Yes.

DAVIS: These tattoos that Mr. Price asked you about, the pentagram up here on your chest -- did a tattoo artist do that?

THE DEFENDANT: No, I did it myself.

DAVIS: How did you do it?

THE DEFENDANT: With India ink.

DAVIS: And what?

THE DEFENDANT: I think part of them with a razorblade, part of them with a needle.

DAVIS: Describe how you do that.

THE DEFENDANT: You dip it in the ink and you cut the top layer of skin.

DAVIS: Is that how you did the "Evil" that you tattooed on your knuckles?

THE DEFENDANT: That's why they don't stay. They're never deep enough.

DAVIS: When you tattooed the "Evil" on the knuckles, is that significant in Wiccan religion?

THE DEFENDANT: No.

DAVIS: Is evil kind of a primary premise of the satanic beliefs, the belief in evil and that evil brings you power?

THE DEFENDANT: From what I have read, most of their beliefs involve around self-indulgence.

DAVIS: So evil -- what did you do it for?

THE DEFENDANT: Just because I thought it looked cool.

DAVIS: Same way with the pentagram?

THE DEFENDANT: Um-hum.

DAVIS: You had another tattoo up on the shoulder?

THE DEFENDANT: Um-hum.

DAVIS: Did you carve it in, too?

THE DEFENDANT: Um-hum.

DAVIS: Did you carve in the one on your hand?

THE DEFENDANT: Um-hum.

DAVIS: Did I understand you to testify that you said this knife wasn't like any knife you ever had?

THE DEFENDANT: Not the colors or anything.

DAVIS: But didn't I understand you -- and I may have missed the flow -- that you had a bunch of knives similar to that three or four years ago?

THE DEFENDANT: Um-hum.

DAVIS: Did you always carry a knife?

THE DEFENDANT: Not always. A lot of times.

DAVIS: What would you do with all these knives?

THE DEFENDANT: Most of them I just kept in my house. Some of them we traded off.

DAVIS: Were some of them daggers?

THE DEFENDANT: Um-hum.

DAVIS: Did you have boot knives that you hide in your boots?

THE DEFENDANT: I didn't hide them in my boots, but I had some that that's what they were for.

DAVIS: Would it be a fair statement to say that most of the time you had a knife on you in your possession when you were out on one of these walks?

THE DEFENDANT: Before I got arrested, yes.

DAVIS: You talked a lot about officers putting words in your mouth?

THE DEFENDANT: Um-hum.

DAVIS: Isn't it true that you are the one who told the officers that the children were mutilated?

THE DEFENDANT: Yes, I said that.

DAVIS: That was on May 10th of '93. The autopsy was done on May 7th so we are talking about four days after the bodies were recovered?

THE DEFENDANT: Um-hum.

DAVIS: Said, "They were probably cut up, one more than the others"? Those are your words, aren't they?

THE DEFENDANT: He asked me was one cut up more than the other. I said yes, they were, probably.

DAVIS: You indicated that you heard they were drowned?

THE DEFENDANT: No. I indicated I heard they were mutilated.

DAVIS: So when he put down in his response to that question, "Heard that they drowned," he made that up, too? That just isn't true?

THE DEFENDANT: They made up a lot of stuff so far --

DAVIS: -- Answer my question --

THE DEFENDANT: -- No, it is not true.

DAVIS: You never said that. The officer just put that in on his own?

THE DEFENDANT: Yes, he did.

DAVIS: When he put in there, regarding whoever committed these crimes, "Probably thinks it is funny and that he won't get caught and won't care one way or the other if he did." Did you say that?

THE DEFENDANT: Yes.

DAVIS: The officer didn't make that up, did he?

THE DEFENDANT: No, I said that.

DAVIS: You told the officer -- was that -- you told him you thought the person who did it would think it was funny?

THE DEFENDANT: Yes.

DAVIS: And would not care one way or the other if he got caught?

THE DEFENDANT: Probably not.

DAVIS: Mr. Price has asked you about your feelings about being arrested. You said you had good days and bad days. Was it a bad day the day after you were arrested when you blew a kiss to the victims' families? Was that a bad day when you did that?

THE DEFENDANT: That was one of the times I lost my temper.

DAVIS: You lost your temper is why you blew a kiss to the victims' families?

THE DEFENDANT: Yes.

DAVIS: And you did make the statement to the officer that, "I will tell you all about it if you let me talk to my mother"?

THE DEFENDANT: I said, "I will tell you everything I know."

DAVIS: If he says in his report that you said, "I will tell you all about it if you let me talk to my mother," that's inaccurate, too?

THE DEFENDANT: That's another of his lies.

DAVIS: And it is your testimony that you are just interested in Wiccan religion and nothing involving the black witchcraft or satanic practices?

THE DEFENDANT: I'm interested in it. I read it, but I don't practice it.

DAVIS: These books where you have handwritten things and certain symbols on the books and your reference that you made to Alister Crowley, the person that is a supporter of human sacrifice, that writing that you made while in the jail out here, that is all just as a result of your interest in black magic, not that you practice it?

THE DEFENDANT: That and being bored.

DAVIS: Do you do any satanic incantations out there while you are bored?

THE DEFENDANT: No, I do not.

DAVIS: And LaVey, the person that you indicated to the officers that was one of the persons you read a lot, that is not Wiccan or white magic, is it?

THE DEFENDANT: No.

DAVIS: So as I understand it, you cannot tell us specifics as to times. You don't know what happened the day before or the day after. Is that right?

THE DEFENDANT: Yes.

DAVIS: You don't have any reason or any -- can't give us any possible idea why Ms. Hollingsworth, Anthony and those two girls would come in here and make up stories that aren't true under oath to get you in trouble?

THE DEFENDANT: I have been in several arguments with the Hollingsworths and that's it.

DAVIS: They are familiar with you, right?

THE DEFENDANT: Yes.

DAVIS: And they know you?

THE DEFENDANT: (NODS HEAD)

DAVIS: How many times reckon Ms. Hollingsworth has seen you?

THE DEFENDANT: A lot.

DAVIS: How frequently?

THE DEFENDANT: Um, maybe like two or three times a week she would drive by me or something, drive by my house, and we would be out in the front yard or something.

DAVIS: And Anthony has seen you a lot, too?

THE DEFENDANT: Um-hum.

DAVIS: Just one more thing. This sheet that I handed you – are you willing to admit that you wrote this while you have been in jail?

THE DEFENDANT: I wrote it, but I don't know when I wrote it.

DAVIS: That's another part where your memory is just kind of gone bad?

THE DEFENDANT: (No verbal response)

DAVIS: Ok. The people that are listed on here – you got your name on here, right?

THE DEFENDANT: Um Hmm.

DAVIS: And then Jason Baldwin, which is your best friend, right? And then you've got Damien Seth Azariah Echols, that's your son?

THE DEFENDANT: Yes it is.

DAVIS: Ok. And then the only other name on this document, besides yourself, your best friend and your son is Aleister Crowley?

THE DEFENDANT: The only names in English.

DAVIS: Are there other names here that are in—

THE DEFENDANT: I don't know what those are. I don't know what those say.

DAVIS: You have -- since the date of your arrest, you haven't been released, have you?

THE DEFENDANT: No.

PRICE: Judge, we object to that question. That's improper.

DAVIS: Well, what I'm gonna ask you is, this Damien Seth Azariah Echols, your son, he wasn't born until after you were placed in jail, correct?

THE DEFENDANT: Yes.

DAVIS: So if you've got his name listed on this document, then this document had to be generated after her was born, right?

THE DEFENDANT: Yes.

DAVIS: Ok. So this is something you've written since here in jail, waiting for trial?

THE DEFENDANT: Yes.

DAVIS: You're Honor, at this time we'd ask to move to the introduction of these documents—

PRICE: Judge, can we approach the bench?

THE COURT: All right. Ladies and gentlemen, you can take a ten-minute recess at this time with the usual admonition not to discuss the case.

(Unintelligible)

PRICE & DAVIDSON: We've never seen these before.

(Unintelligible)

DAVIS: It's cross-examination, your Honor.

FORD: Well, it's also an exhibit. Isn't there an order about exhibits?

(Unintelligible)

DAVIS: I didn't have any anticipation of what I was going to use as an exhibit until he got up there and took the stand.

DAVIDSON: Well, when did you obtain that? Oh wait, she can't hear yet. I'm sorry.

FOGLEMAN: It was after the trial started.

THE COURT: All right, you're going to have to be quiet in the audience; I'm trying to hear up here. Either sit down or go on. All right, this is a hearing outside the presence of the jury.

FORD: (Objecting, unintelligible.)

PRICE: Judge, we'd like to know the source of this document.

DAVIS: Apparently it came from the jail.

PRICE: We'd like to know how they got it from the jail—

DAVIDSON: How did you get it?

DAVIS: We got a copy of it.

PRICE: We'd like to know who in the jail has been going through my client's personal items?

THE COURT: I don't know.

DAVIDSON: Well, you gotta know who you received it from? It didn't just appear—

PRICE: There's gotta be a chain of evidence, then. Actually, this appears to be a photocopy.

UNKNOWN: I think it is.

PRICE: Does the State have the original?

DAVIS: No.

PRICE: Then we object on best evidence, your Honor—

DAVIS: It's my understanding that the original is not obtainable unless Mr. Echols wants to provide us with it—

PRICE: Wha—Whoa—

FORD: How'd you get it on the copy machine? Did it just fly in there?

DAVIS: No, I think it got copied. (audience laughter)

DAVIDSON: It got copied?

THE COURT: Be quiet now, audience. I don't need any giggling.

PRICE: So, has the State been going through my client's personal possessions in the jail? I'd like to know where this document has come from, Judge.

DAVIS: I'm not sure where—

THE COURT: Are you asking me the question?

PRICE: Yes sir, I'm asking you the question.

THE COURT: I couldn't tell you.

DAVIDSON: We're asking you to enquire of the Prosecutor.

THE COURT: How did you get it?

DAVIS: I'm not sure where it came from.

DAVIDSON: Well, it didn't just fly in and on the table, let's—

DAVIS: I think we got it from some jail personnel.

THE COURT: I'm gonna sustain the objection to the tender of the document into evidence.

DAVIDSON: We ask for a mistrial, too.

THE COURT: Denied.

PRICE: We move to strike the testimony, your Honor.

THE COURT: Denied. The witness identified it as being his, he identified the time and place of the authorship and that testimony is before the Jury and it was basically without objection. The only objection that's been made was to the tender of the documents themselves, which I'm sustaining.

PRICE: All right, Judge, we'd also like to know what other document's the State has gone through on behalf of my client.

THE COURT: Well—

PRICE: If his rights have been—if somebody from the jail has been going through his—the material; he's also had documents as part of our defense—my client has had out at the jail. I'd like to know whether those documents the State's gotten a hold of.

FOGLEMAN: That's the only document.

FORD: That's the only one y'all copied, not the only one you've seen.

DAVIS/FOGLEMAN: That's the only one that we've seen.

PRICE: Judge, I'd like to know what jail personnel has gone through my client's personal possessions? Ask that to the Prosecutor.

DAVIS: Frankly, Judge, I don't know where it came from as far as I know it came from somebody out at the jail.

DAVIDSON: Well, could you—

(Unintelligible)

THE COURT: I'm gonna sustain the objection to the admission.

PRICE: Judge, we'd like to go one further. What person gave this to Mr. Davis?

THE COURT: Do you know who gave it to you?

PRICE: And we'd like to call this person up here. We'd like to have a hearing.

THE COURT: For what purpose? I sustained your objection.

PRICE: Yes sir, but I want to know what else this person has done—going through my client's personal possessions in jail, your Honor.

THE COURT: Well, I couldn't tell you.

PRICE: I know, that's why we want to have a hearing, Judge. And that's why I want to know who the person was.

FOGLEMAN: Well, I'm not so sure the jail people don't have the right to go through possessions of an inmate in the jail.

PRICE: Judge—

THE COURT: They probably do.

PRICE: They have a right to go through any possessions that he's got? We have had—we've had documents, we've had items that we've used in the defense of our case that my client has had out at the jail.

FOGLEMAN: He's told you that's the only item that we have seen.

PRICE: That's the only item that they've copied. I want to know who has gone through my client's items, your Honor.

THE COURT: Well, I—

PRICE: That's why I'm asking—please ask who the person is.

THE COURT: Ask him.

DAVIS: I don't know where it came from, Judge. I know it came from the Sheriff's office. I don't know who, individually.

PRICE: There are several—do any Sheriff's deputies that are here right now, Judge, know what—

THE COURT: Well, I guess you'll have to investigate it. I can't answer it; I don't have any ide

THE DEFENDANT: You all come up with something new every five minutes.

PRICE: All right then, Judge, I would like you to approve Ron Lax to investigate the Sheriff's office to find out—

THE COURT: I'm not approving Ron Lax to investigate anything.

PRICE: All right, do you want the Sheriff's office to investigate the Sheriff's office, your Honor?

THE COURT: I don't know.

PRICE: You want Bobby's staff (phonetic) from the State Police? We certainly object to anybody going through my client's possessions—

THE COURT: As far as I'm concerned, that's a totally separate matter. I sustained your objection to the offer of that evidence.

FORD: Your Honor, it goes to the area of Prosecutorial—

PRICE: Misconduct.

THE COURT: Well—

FORD: If they're out there violating an individual's rights—an individual has the right to privacy in jail. And if they're violating his rights, that's all relevant to this Court and this Court ought to be concerned if that is going on because that piece of paper did not get on that photocopy machine (unintelligible) by accident. It happened on purpose. Somebody in law enforcement went through that man's personal belongings and this Court should be concerned and as a co-representative of Jason Baldwin, I'm interested if they've been doing the same thing to his records and when we put on our defense they're going to do the same thing.

THE COURT: Well, the Court is of course interested in all the evidence and how it's all been procured or obtained and I simply can't answer your questions. You're asking the Court to answer questions I can't. I've asked the Prosecutor to describe how he came by it, how'd you come by it? (Pause) I don't need anything out of the audience. I don't want to hear a mumble.

FORD: Your Honor, while they're formulating our answer, we'd like to move to strike the testimony as it refers to Jason Baldwin, as it is a statement by a co-defendant (unintelligible), that it is inadmissible. It's a document, it's hearsay and we ask that the Court strike that and conform to its previous rulings that you have made regarding statements of Mr. Echols.

THE COURT: Well, it doesn't have anything to do with any rule of law that I know of. It's not a cross-implicating statement, it's not a—it doesn't fall under the Bruton Rule, it's merely his name written on a piece of paper and at the time the witness identified it, he said he recognized it, he said—as I recall his original testimony, he didn't know at what time frame it was written.

FORD: Judge—

THE COURT: Wait a minute, I'm not through. He indicated he didn't know at what time it was written, but he acknowledged that it was his work and it had something to do with a code coming from somebody named Cowley. And there was absolutely not one peep from either side objecting to the offer of that testimony; it went through and then at a afterthought, I thought he was getting ready to quit with the witness, they offered the physical document. After it had been established that it must have been written at a time while he was incarcerated. You failed to object, and I deny your motion. I'm sustaining your motion as to the physical offer of that document. But the oral testimony will stand as being unobjected to at the time.

FORD: Are you saying because the Prosecutor said one more sentence, we waived our objection?

THE COURT: No, I didn't say that. You heard what I said.

FORD: But we don't—he said—as soon as he identified it as being written in jail, he offered it into evidence and immediately we objected.

THE COURT: You objected to the document. I sustained the objection.

FORD: When the jury went out, we objected to the statement itself.

THE COURT: Are you able to tell how you came by it?

DAVIS: Your Honor, I know that it was some time during Jury selection process we received this from—I think John actually received it, but it was from somebody that was jail personnel out there.

THE COURT: Well, in the first place gentlemen, I don't know that the jailers don't have a right to go through the belongings of a person in a penitentiary or a jail. They don't have a right to interfere with their US mail. Now, if they're censoring their mail, if they're going through their legal

documents that are sent through the mail, then that's a different matter but as far as their writings, their belongings, they can search them every day as far as I know.

DAVIDSON: Your Honor, don't we have the right—

THE COURT: If you can show me some law where—

DAVIDSON: --before they tried to introduce this testimony, to know what it is?

THE COURT: Yes, that's why I'm sustaining the offer of the document because it wasn't exposed to you and given to you prior to this time. If you had wanted to object to the information, you should have done it at the time it was offered.

DAVIDSON: Your Honor, it was such an utter surprise.

UNKNOWN: He should have shown us the document before he asked the question. He never—we never knew any question he was going to ask until it was too late. If we had known what he was gonna do, and what he was gonna ask from that document, then we could have properly objected. But that didn't happen because they never provided that to us.

THE COURT: Well I guess your objection is that it is some kind of privileged communication that was—you're suggesting that it was lawyer's work product and there's absolutely no basis for any of your suggestions at all.

PRICE: Judge, we have had documents concerning the defense of my client that he has had in jail, and if any body from the Sheriff's office has been going through those items like they've apparently been going through the other items, we strenuously object and that's why I'd like to know at this time who from the jail has gone through my client's possessions.

THE COURT: I don't know. Ask the Sheriff. Investigate it.

FORD: Your Honor, I'd also like you to enquire of the Prosecutor whether they have obtained any documents from Jason Baldwin, from his private cell, whether they intend to use those in evidence in our time—if they acquired them, we'd like to know. Now.

THE COURT: Do you have any other documents of this type that came through the hands of the sheriff or the jail?

DAVIS: No, sir, your Honor.

THE COURT: It will be my ruling that I'm not going to allow it because you didn't disclose it and, secondly, the oral testimony will stand. He identified it as his and I don't find that there's any cross-implicating statement involved in it at all, simply a name. Court will be in recess until in the morning at 9:30

CROSS EXAMINATION (resumed)

DAVIS: Mr. Echols, the same rules as yesterday. I ask a question. If you don't understand it, please ask me to repeat it.

THE DEFENDANT: Okay.

DAVIS: Now, yesterday I asked you some general questions about, you had indicated that you and Jason quite frequently walked around areas of West Memphis?

THE DEFENDANT: Yes, sir.

DAVIS: Okay. I want to direct your attention on this diagram -- in fact, let me circle it. This area right in here which would be, I believe, east of -- is that 14th?

THE DEFENDANT: Yes, sir.

DAVIS: It is east of 14th Street and south of the service road and the interstate. In that particular neighborhood, Market Street, Goodwin, in there, did you and Jason frequently walk and roam in that area, the same neighborhood where the three victims lived?

THE DEFENDANT: I think by looking at the map I would have had to.

DAVIS: How often?

THE DEFENDANT: Probably in that area maybe twice a week.

DAVIS: For how long a period?

THE DEFENDANT: A few years.

DAVIS: How many?

THE DEFENDANT: Probably at least two years.

DAVIS: All right. And that, when you told us yesterday that you hadn't been over in that area, the residential area near Robin Hood Hills, were you just not thinking of that particular area?

THE DEFENDANT: No, when you said "neighborhood," I just didn't know what you are talking about, what that neighborhood is.

DAVIS: But when I specified that particular area, the neighborhood that I circled, you were there two or three times a week?

THE DEFENDANT: Probably an average of two to three times a week.

DAVIS: And what would the purpose be over there? Would you all just being walking around the neighborhood?

THE DEFENDANT: I had to walk through there to get from my house to Jason's house. I would have to walk through there to get from my house to Domini's house or anywhere in Marion.

DAVIS: Okay. Where were you living at the time?

THE DEFENDANT: At the time I was arrested, Broadway Trailer Park.

DAVIS: Okay. Well, when you were walking over here -- this is the interstate, didn't you -- where, if you could, show me where you lived?

THE DEFENDANT: Right here (indicating), somewhere along in there.

DAVIS: So you lived south of Broadway?

THE DEFENDANT: Uh-huh.

DAVIS: And what time period was that? When did you quit living south of Broadway?

THE DEFENDANT: When I was arrested.

DAVIS: Okay. And your only reason to walk through here would be to go to and from Jason's residence?

THE DEFENDANT: Uh-huh.

DAVIS: And that's the path you would take, you and Jason would take a path through here and over there?

THE DEFENDANT: Yes, sir.

DAVIS: And that would be two or three times a week?

THE DEFENDANT: On an average.

DAVIS: Did you have anybody else in that neighborhood that you visited or that you went over and were at their house or anything of that nature?

THE DEFENDANT: Probably, there is several people in Lakeshore.

DAVIS: Not in Lakeshore, in the neighborhood we circled.

THE DEFENDANT: No, but I had to go through there to get to Lakeshore.

DAVIS: Now, let me refer you back to your statement that you gave Officer Ridge. Did you tell him in that statement that you had been a member of a white witch group for five years?

THE DEFENDANT: No.

DAVIS: Okay. So, if that is contained in his report that you told him that you had been a wiccan or white witch for five years, that would be inaccurate?

THE DEFENDANT: I told him that. I did not say I was a member of a group.

DAVIS: But you had been -- he says, "He has been a member of this group for about five years."

THE DEFENDANT: I have never been a member of any group.

DAVIS: And so, if he put that in his report, you are saying that's inaccurate?

THE DEFENDANT: Yes, I am.

DAVIS: He made that up?

THE DEFENDANT: Yes, I am.

DAVIS: Now, you told us yesterday what medication -- are you on that today?

THE DEFENDANT: I take it -- last night.

DAVIS: Okay. And it is an antidepressant?

THE DEFENDANT: Uh-huh.

DAVIS: Okay. And how long have you been on that medication?

THE DEFENDANT: A couple of years, guess.

DAVIS: And what is the name of it?

THE DEFENDANT: Imipramine.

DAVIS: And it has a calming or relaxing affect on you, correct?

THE DEFENDANT: It makes me sleepy.

DAVIS: Okay. And it keeps you calm, true?

THE DEFENDANT: I can't tell that I am any calmer whenever I take it. I just go to sleep real easy.

DAVIS: What do you take that for?

THE DEFENDANT: Depression.

DAVIS: Okay. Are you a manic depressive?

THE DEFENDANT: Yes, I am.

DAVIS: Okay. Describe for us what happens when you don't take your medication and you go into a manic state?

THE DEFENDANT: I cry.

DAVIS: This is in a manic state?

THE DEFENDANT: Uh-huh. I stay by myself most of the time closed up. If I don't take the medicine, I get headaches. I get nauseous, just generally depressed.

DAVIS: Well, that's the depressive state of a manic depressive, correct?

THE DEFENDANT: Yes.

DAVIS: What is the manic state like?

THE DEFENDANT: What do you mean?

DAVIS: When you are in a manic phase. A manic depressive is somebody who has big highs and big lows, right?

THE DEFENDANT: Yeah.

DAVIS: Tell us about the big highs. Is that where you feel nearly invincible?

THE DEFENDANT: Yeah.

DAVIS: When you are on one of those highs?

THE DEFENDANT: Yes.

DAVIS: And that's what you get when your medication gets out of level, right?

THE DEFENDANT: Right.

DAVIS: And you get that feeling that you are invincible, that there's nothing you can't accomplish, correct?

THE DEFENDANT: Right.

DAVIS: Now, has that condition, did that lead to the incident when you were in school where you attacked the the boy and tried to claw his eyes out?

PRICE: Objection, your Honor, to the relevancy of this incident. 404-B. This is certainly not relevant. That certainly can't go to motive which the State has been alleging. This is not, even if they are claiming this is a bad act, we object to this, your Honor. It's completely irrelevant.

DAVIS: Your honor, your honor, he has indicated that he has different, he presents a demeanor here of someone that's calm and quiet and passive. But he has indicated that when that medication -- he is on his medication now -- when that medication is out of whack, what I am asking is a question, when his medication is like that, there has been instances where he has committed violent acts and is it connected to this medication and is it connected to his swings as a result of what he says is an illness that he suffers from. Because that's important, his condition and his actions are important in this trial to determine what his conduct was on the night in question.

DAVIDSON: Your Honor, that's a medical question. If Mr. Davis wanted to bring a medical doctor in here, he certainly could have. It's a medical question. This incident that happened so many years ago, it's not relevant.

PRICE: This incident happened two or three years prior to the murders, your Honor. This certainly cannot go to any kind of motivation which is the only way it would fit under 404-B.

DAVIS: Your Honor, they put on testimony yesterday in direct about what a quiet, passive, peace-loving wiccan this defendant is. And I want to be able to go into evidence, and as far as his conduct is concerned, that that rebuts that, to show that that isn't the true character of the witness.

PRICE: Judge, may we approach?

THE COURT: All right.

(THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH)

DAVIDSON: Your Honor, this is the same incident as the other. He is trying to bring up these bad acts that are so far removed from the

PRICE: Judge, we are not arguing self-defense. We are not putting our client's peacefulness into evidence. We have not -- if we argue self-defense, perhaps it might be relevant, but otherwise, it's not.

DAVIS: they went on ad nauseam about this yesterday telling us what a peaceful individual he was, how he was motivated only by good intentions and his character and things of that nature.

PRICE: We haven't put his character into evidence. Just because a defendant testifies does not put his character into evidence, your Honor.

THE COURT: And you are just saying that it is being offered to rebut the peaceable character of the defendant?

DAVIS: Nice guy that the defendant said he was yesterday, the nonviolent, the peace-lover that wouldn't engage in anything that was violent, would never be involved in any --

DAVIDSON: that testimony didn't come out, your Honor.

DAVIS: It sure did. He said, "Gosh, I wouldn't be involved. In fact, I think, I saw it on TV last night. I wouldn't be involved in a human sacrifice. I am a wiccan. I am a white witch. I don't do anything, not in violence."

THE COURT: I am going to allow you limited opportunity to question him about any violent outbursts that he might have had.

PRICE: Three years prior to the murder?

THE COURT: I am not saying at any time. I am going to allow him to ask in general, does he have those mood swings where he becomes violent and uncontrollably violent without going into specific acts of conduct and then pass on, pass on.

PRICE: There is no evidence that this is a result of medication, your Honor.

THE COURT: I am going to allow you to ask that particularly when he has testified that he is on the mood altering course of medication. I am going to allow him to ask if you don't take medication, do you have mood swings where you feel like you are God or whatever and where you get angry and violent.

PRICE: I am going to object to that.

THE COURT: I am going to allow him to ask that. Maybe not use the term "God," but invincible, I think is what you used or something. But I am going to ask you to avoid specific incidents of conduct unless they are in close proximity to the, you know, to the time of the trial -- incident.

PRICE: Judge, three years is not close proximity. This was three years ago.

FORD: When was it?

FOGLEMAN: It was after Damien and Deanna broke up.

THE COURT: It was after?

FOGLEMAN: After Damien and Deanna broke up.

DAVIS: They would have probably been broke up, it should be early '92.

PRICE: Year and half prior to the murder, Judge. That is still not close proximity.

DAVIS: About a year. I don't think time, I mean, a person's conduct and tendency towards violent activity, and that doesn't, that's not something that changes on a month-to-month basis, particularly if it is as a result of, you know -- we need to know if those incidents weren't the result of medication, then that's not -- then we need to -- the jury needs to know that.

DAVIDSON: Your Honor, we will have to bring a doctor in then to testify as to medications.

THE COURT: You may have to. Rule 404 seems to allow you to go into a trait of character of the accused if you are trying to rebut the peaceful nature of him.

PRICE: But, Judge, if you read on, that is only if, if it is offered in a homicide case to rebut evidence that we were the first aggressor. It only applies if it is brought in self-defense. We have never argued self-defense; so, it is not admissible under 404.2.

THE COURT: It's a victim, that of the victim.

MR. DAVIS: This is cross-examination, I mean.

THE COURT: I am going to allow you to cross-examine him as to his mood swing and his violence, if he has any. But I want you to avoid specific incidents of conduct unless it is in close proximity of the date of the crime.

PRICE: This is not within -- it's over a year old, Judge, is not close proximity.

THE COURT: I am suggesting that maybe you don't go into the specific incidents of conduct

(RETURN TO OPEN COURT)

BY MR. DAVIS

DAVIS: Mr. Echols, when you have these mood swings and your medication is out of balance, do you have, do you get violent sometimes?

THE DEFENDANT: Only toward myself.

DAVIS: So you are telling us that these mood swings that occur, you don't get violent toward other people?

THE DEFENDANT: It just makes me suicidal.

DAVIS: So your acts of violence toward other people have been the result not of any medication but just, just out of anger?

THE DEFENDANT: My medication doesn't affect how I deal with other people.

DAVIS: The incident in Oregon, you had an altercation with your father out there is why you came back before they did, right?

PRICE: Your Honor, again we object. The Court just ruled within close proximity. This is not within close proximity. We object, and we want you to admonish the prosecutor he cannot get into this line of questioning. You just ruled within close proximity. This is not within close proximity, and we object.

DAVIS: As I understand it, your Honor, it was in the fall of '92 which we are getting closer in proximity. I don't know exactly where the cutoff mark is.

THE COURT: Well, approach the bench again.

(THE FOLLOWING CONFERENCE WAS HELD AT THE BENCH)

THE COURT: The problem I have got now is I think the question he asked was generic enough and was proper about mood swings, and I think that is appropriate under the circumstances here. He has testified that he doesn't get violent toward other people only toward himself and only gets suicidal. And I think it's proper to rebut that he get suicidal by showing an act of violence toward another person that occurred within a year of the crime. I am going to allow that.

PRICE: The State raised the same question yesterday about these acts. We objected and your Honor sustained the objection. We object to your Honor reversing your rulings at this point.

THE COURT: I am going to allow that. That is within eight, nine months of the crime.

DAVIS: And I think the question yesterday was directed to someone other than, I mean, was directed to his mother. This is him.

THE COURT: This is him. I am going to allow it. Overruled.

(RETURN TO OPEN COURT)

BY MR. DAVIS:

DAVIS: It's true that you came back from Oregon before your parents did, correct?

THE DEFENDANT: Yes.

DAVIS: And you basically were sent back here because you had had a disagreement, an altercation with your father, correct?

THE DEFENDANT: The reason I came back was because I was homesick.

DAVIS: You had an altercation with your father right before you came back, correct?

THE DEFENDANT: Yes.

DAVIS: And that altercation resulted in the police being called, didn't it?

THE DEFENDANT: Yes.

DAVIS: And in that altercation, was that one of those instances where you got angry as a result of your medication being off?

THE DEFENDANT: They called the police because I was locking myself in my room and was about to commit suicide.

DAVIS: And you had some knives in there with you, too, didn't you?

THE DEFENDANT: Yes.

DAVIS: And when your father came in, you told him you would eat him alive, didn't you?

THE DEFENDANT: No, that happened at the hospital.

DAVIS: Oh, you told him that at the hospital?

THE DEFENDANT: Uh-huh.

DAVIS: Okay. And it was during this time period, was this a time period when your medication was out of balance?

THE DEFENDANT: No.

DAVIS: Okay. So you did these things when your medication was normal?

THE DEFENDANT: I had been drinking that night.

DAVIS: Now, as a result of that, you were hospitalized, correct?

THE DEFENDANT: Right.

DAVIS: And as soon as you got out of the hospital, you got shipped back to Arkansas?

THE DEFENDANT: Right.

DAVIS: And they took those knives away from you? One of them was a boot knife, correct, something that you hide down in your boot?

THE DEFENDANT: Yes.

DAVIS: Okay. And you had a couple of others, I believe?

THE DEFENDANT: Uh-huh.

DAVIS: Okay. And they had to take those away from you, correct?

THE DEFENDANT: They asked me for them, and I gave it to them.

DAVIS: When the police arrived?

THE DEFENDANT: No.

DAVIS: Did the police have to take you into custody?

THE DEFENDANT: No.

DAVIS: Now, you testified yesterday about the questions that were asked to you on the questionnaire. Do you remember who asked you those questions?

THE DEFENDANT: I think it was Detective Ridge.

DAVIS: Okay. And he asked to you on question 3, "Why would someone do this?" Do you remember him asking you that?

THE DEFENDANT: Uh-huh.

DAVIS: Okay. And your response was that the person was sick or a satanist, is that correct?

THE DEFENDANT: He asked me was it possible if they could be a satanist, and I said, "Yeah, I guess."

DAVIS: Okay. So it's your testimony that you didn't say that the person was sick or a satanist, that Mr. Ridge, the officer, is the one who made those statements and you just agreed?

THE DEFENDANT: That's correct.

DAVIS: Okay. So, those weren't your words? Officer Ridge was talking about a satanist, not you?

THE DEFENDANT: Right.

DAVIS: Okay. Now, on question number 9 when he asked you how you think they died and the answer is, "Mutilation, cut up all three, heard they were in the water drowning, cut up one more than the others." Is that again what Officer Ridge said and you just agreed?

THE DEFENDANT: No, I had saw that on TV, newspapers, people talking.

DAVIS: And you knew about the drowning, correct?

THE DEFENDANT: I knew they were in the water. I didn't know that they drowned.

DAVIS: You knew that one was cut up more than the others?

THE DEFENDANT: Whenever they were asking me about mutilation, I thought different from mutilation. What I call mutilation was different from what I seen up here.

DAVIS: I was asking about one being cut up more than the others.

THE DEFENDANT: He asked me was it possible. He said, "Do you think one was hurt worse than the others?" I said, "Yeah, I guess."

DAVIS: Oh, so again that particular area was one of those things where Officer Ridge told you and that wasn't your response? You just responded about the drowning and mutilation?

THE DEFENDANT: If he didn't get the answer he liked, he would go back and try to get me to say something else.

DAVIS: And it is your testimony specifically that you weren't the one who said one was cut up more than the other?

THE DEFENDANT: No, I did not.

DAVIS: That was Officer Ridge that said that?

THE DEFENDANT: I agreed with him when he said that.

DAVIS: Okay. But the other parts of that answer were your words, not Mr. Ridge's?

THE DEFENDANT: (Indicating)

DAVIS: Question number 11, "How do you think the person feels that did this?" The answer was, "Probably makes them feel good, gives them power." Now, I guess Officer Ridge said that, too?

THE DEFENDANT: No, I used common sense on that. If someone was doing it, then they must have wanted to. And if they were doing something they wanted to, it must have made them happy. I don't think they were doing it because someone forced them to or because they didn't want to.

DAVIS: So in your mind the person that killed these three kids, it is common sense that killing three eight-year-olds would make you feel good?

THE DEFENDANT: Whoever did it, it must have.

DAVIS: Okay. And it gives them power. That's also another common sense perspective from you?

THE DEFENDANT: Pretty much.

DAVIS: Now, when you say, "gives them power," is that based on what you have read in these books?

THE DEFENDANT: No, it had nothing to do with that, just the crime itself.

DAVIS: Killing three eight-year-olds gives you power. I don't understand that. Explain that to me.

THE DEFENDANT: They probably thought, well, that they were like overcoming other humans or something.

DAVIS: Now, on question number 19, he asked you, "Had you ever wondered what it would be like to kill someone even if you didn't go through with it?" And your response, did you respond by saying, "Gosh, I never thought about killing anybody?"

THE DEFENDANT: I don't remember what I said.

DAVIS: Did you tell him you never thought about killing people?

THE DEFENDANT: I don't remember.

DAVIS: The response was -- let's see if I can read your writing --

PRICE: Judge, we object, your Honor. That is not my client's writing.

DAVIS: Okay. Your Honor, I can't read Officer Sudbury's writing.

DAVIS: You responded to him that whatever you do can come back to you three times over?

THE DEFENDANT: Three times as bad or as good.

DAVIS: And where did you get that statement? That was your remark, right?

THE DEFENDANT: Right.

DAVIS: Is that something that you learned when you were practicing to be a Catholic?

THE DEFENDANT: No.

DAVIS: Where did you pick that up?

THE DEFENDANT: I don't remember. I guess I've just heard it all my life.

DAVIS: Now, Officer Ridge has that when you were asked these questions that you say, "It was a thrill kill." Is that your words?

THE DEFENDANT: He asked me what did I think could be the possible motivation.

DAVIS: Okay. And you indicated a thrill kill, is that right?

THE DEFENDANT: Right.

DAVIS: Or a satanic act?

THE DEFENDANT: Right.

DAVIS: And also it says in here that there was a number of three victims, and it was symbolic because three is a special number in some of these religions. Is that your response?

THE DEFENDANT: No.

DAVIS: Is that your words?

THE DEFENDANT: I wondered what three had to do with it because he made a big deal out of me wearing three earrings. And anything with the number 3, he was making a big deal out of it. I didn't understand that.

DAVIS: So, that wasn't your response? You are saying that Officer Ridge made that up and you just went along with it?

THE DEFENDANT: I agreed with him so he would leave me alone.

DAVIS: But the significance of the three victims and that sort of thing, Mr. Ridge back on May 10th was the one who made that connection?

THE DEFENDANT: Right.

DAVIS: And that -- did you also tell him that each person had a demonic side to them?

THE DEFENDANT: I believe every person has a good side and a bad side, yes.

DAVIS: Were those your words when you referred, when you've got written down here, you stated there was no control of the demonic portion of people?

THE DEFENDANT: He asked me did I think there were some people that could not control that side. And I said, "Yes, I guess there is."

DAVIS: That was your -- who used the word "demonic"?

THE DEFENDANT: I don't know if it was me or him.

DAVIS: Is that something you have read about in some of your books and things and literature you studied?

THE DEFENDANT: Not really. It's common sense.

DAVIS: It also states that Damien stated that the younger of the victims would be more innocent and in turn more power would be given the person doing the killing.

THE DEFENDANT: Right.

DAVIS: Did you say that?

THE DEFENDANT: Yes.

DAVIS: Those are your words?

THE DEFENDANT: Uh-huh.

DAVIS: Kind of sounds like that guy we talked about yesterday, right?

THE DEFENDANT: Uh-huh.

DAVIS: Mr. Crowley?

THE DEFENDANT: Yes.

DAVIS: Is that where you got that idea?

THE DEFENDANT: I saw it on several movies, books.

DAVIS: Did you pick that up when you studying to be a Catholic?

THE DEFENDANT: No.

DAVIS: You also said and told Officer Ridge, is it not correct that you told him that the killer knew the kids went out there, knew the kids and asked the kids to meet them out there? Is that what you told him

THE DEFENDANT: He asked me was that possible, and I said, "Yes."

DAVIS: So once again, are you saying that you didn't say this, that he just threw out the idea there and you just agreed to it?

THE DEFENDANT: Right.

DAVIS: And if he says something different, that would be, he would be lying about it, right? You are the one telling the truth?

THE DEFENDANT: I wouldn't put it past him.

DAVIS: Did you also tell him that they would be not big -- speaking of the three eight-year-olds that were murdered -- they would be not big, not smart, and easy to control?

THE DEFENDANT: Right.

DAVIS: And you told him that?

THE DEFENDANT: He asked me why did I think they chose those victims.

DAVIS: Did you tell him about the killer not being worried about the victims screaming because it was located near an interstate where the noise level was high?

THE DEFENDANT: No, I told him it was because they were in the woods.

DAVIS: Oh, in the woods? And you indicated those were your words to the officer that the killer wouldn't worry about the screams because the woods would be such that people couldn't hear them?

THE DEFENDANT: He asked me did I think that they were worried about the screams or if they tried to stop them from screaming. And I said, "No," and he asked me, "Why not?" And I said "Well, they were out in the woods; so, I don't guess there would be anybody there to hear them scream; so, why would he be worried about it."

DAVIS: And did you also tell him that the killer would probably want to hear the kids screaming?

THE DEFENDANT: If he got off on killing people, he probably would like to hear them scream.

DAVIS: Those were your words, though, right?

THE DEFENDANT: Right.

DAVIS: And is that also part of the common sense that whoever kills eight-year-olds can feel good and whoever kills eight-year-olds would like to hear them scream, is that part of your common-sense philosophy?

THE DEFENDANT: I figured they must have if they did it.

DAVIS: And you told him that the person was probably someone local, didn't you?

THE DEFENDANT: Uh-huh.

DAVIS: And that they probably wouldn't try to leave town, correct?

THE DEFENDANT: Correct.

DAVIS: Now he also asked you about what books you liked to read, didn't he?

THE DEFENDANT: Uh-huh

DAVIS: And you told him one. You told him Steven King, right?

THE DEFENDANT: Uh-huh.

DAVIS: And he wrote that down?

THE DEFENDANT: Uh-huh.

DAVIS: And you told him Anton LaVey, correct?

THE DEFENDANT: He asked. I haven't read anything by him, but I know who he is.

DAVIS: How did he get Steven King?

THE DEFENDANT: Because he was looking through my books in my room.

DAVIS: But I mean, how did he write that name down? Who told him Steven King was one of your favorite authors?

THE DEFENDANT: He asked me did I like him. I said, yes, I did.

DAVIS: Did he ask you about Anton LaVey?

THE DEFENDANT: Yes, he did.

DAVIS: And what did you tell him?

THE DEFENDANT: I said I haven't read anything by him, but I am familiar with him.

DAVIS: And he is the head of the church, the satanist church?

THE DEFENDANT: Yes, he is.

DAVIS: Now, did he also ask you about what type of things you would expect to find at the scene where these three boys were murdered?

THE DEFENDANT: If it was a satanic killing.

DAVIS: If it was a satanic killing?

THE DEFENDANT: Yes.

DAVIS: And was one of those things -- did you tell him what those things were you would expect to find?

THE DEFENDANT: Yes.

DAVIS: And one of those things you told him, one of those things you told him were candles, right?

THE DEFENDANT: Right.

DAVIS: Did you hear the testimony from Lisa Sakevicius from the state crime lab that there was candle wax on the shirt of one of the victims? Did you hear that, Mr. Echols?

THE DEFENDANT: Yes, I did.

DAVIS: That's consistent with what you told the officer, isn't it?

THE DEFENDANT: Yes, it is.

DAVIS: You have just told us that that is consistent with a satanic murder, didn't you?

THE DEFENDANT: Yes.

DAVIS: Would it be a fair statement to say that you wore that trench coat that you talked about just about everywhere you went?

THE DEFENDANT: Pretty much.

DAVIS: Even on up first of May, middle of May, out there at the softball park in the middle of May as hot as it is, you still had this full-length, black trench coat on, correct?

THE DEFENDANT: I don't think I wore it that night, but I wore it around in that area, yes. I wear it pretty much all the time.

DAVIS: Even when it was hot?

THE DEFENDANT: Correct.

DAVIS: Is that part of your liking to wear black?

THE DEFENDANT: Yes, that and I just liked the coat, period.

DAVIS: Even-- and it's your testimony that that coat was at your house the night that you were arrested?

THE DEFENDANT: Yes, it was.

DAVIS: And where was it?

THE DEFENDANT: Laying on the floor.

DAVIS: Where?

THE DEFENDANT: In my sister's bedroom.

DAVIS: Was it near the closet?

THE DEFENDANT: I think it was by the bed

DAVIS: Now, that closet in your sister's bedroom is where you kept your clothes, correct?

THE DEFENDANT: Yes.

DAVIS: And so the clothes you would wear come out of that closet?

THE DEFENDANT: Yes.

DAVIS: Why do you think there was candle was on that little victim's shirt?

THE DEFENDANT: It could have been whoever killed him did it. He could have got it before he left home. I don't know.

DAVIS: Pass the witness, your Honor.

Closing Argument of Prosecutor John Fogleman

MR. FOGLEMAN: May it please the court, attorneys for the defense, ladies and gentlemen of the jury. Before I get into this argument, I wanna take this opportunity--and I'm sure that the attorneys for Mr. Baldwin and Mr. Echols would join me in this--it's been a long trial and we all appreciate your willingness to serve, your time, your attention. We've all observed that you've continued to take notes throughout the trial despite some of it being fairly tedious and perhaps boring type testimony. But we all appreciate your willingness to serve, to take the time away from your families and jobs to do--what I'm sure all of you feel, is your civic responsibility and we all appreciate that.

When you took your oath as a juror you took an oath to do a particular duty. And what that was, was to render a verdict based solely and exclusively as the laws that come from Judge Burnett and the evidence that has come from this witness stand. And nothing else. And that's all that anybody can ask you to consider in arriving at your verdict and that's all that we ask you to consider. Your duty as a juror demands that.

Because of the nature of this case, no matter how you look at it--you might feel sympathy for one side or the other. Nobody can tell you not to have sympathy. Because you're gonna have sympathy for whoever you choose to. But the important thing--and the Judge has told you this, is that sympathy is not--is not, a proper basis for reaching a verdict. And that sympathy should not affect in any way your verdict in this case. And we, on behalf of the State, ask you to follow that instruction as well.

Now y'all heard all through jury selection, you probably heard a hundred times--that the State has the burden of proof beyond a reasonable doubt. And that is this State's burden and we welcome that burden. As we told you during jury selection it's also important that you not require more than what the law requires of us. And that burden tells you basically two things. How much the State has to prove and what the State has to prove. What the State has to prove, if you'll recall--are only the elements of the offenses charged. Nothing else. Not whether somebody got blue socks or white socks or anything else, other than the elements of the offense charged. How much we have to prove--beyond a reasonable doubt. And that instruction the court gives you has a clear definition of reasonable doubt. It's not a mere possible or imaginary doubt. But once you are convinced--if you have an abiding conviction of the truth of the charge, you are convinced beyond a reasonable doubt.

Now, I wanna talk to you a little bit about some things that happened in jury selection and opening statements and throughout the trial that I submit to you were guided to try to get you to increase that burden. Number one, during jury selection, a lot of psychology used in jury selection--the defense has an expert trying to help them. And there are a lot of word games that are played during jury selection. And some of the examples during jury selection were like--help me to make sure that we

don't make a mistake. Nobody wants a mistake in this case. Nobody. But when somebody says, "help me," is a psychological ploy to try to get you subconsciously to move, not in the middle--but move toward their side.

Also used what's called visual imaging. Remember the bridge, building a bridge back here of reasonable doubt. Y'all remember that? Well that bridge--is it a small bridge or a big bridge? The examples used like a bridge across the Mississippi River or a hundred feet across. Well if they only make it ninety feet is that beyond a reasonable doubt, you know--how would you react to that. Well, the image that is trying to be built is something large and massive, which in reality there's a line--they didn't make it or they did. It's proof beyond a reasonable doubt or it's not. And it doesn't matter how you get across that line. Whether it's a foot bridge, a massive structure, a log, whether you swim across--it doesn't matter how you get there.

In opening statements the defense tells you that all the prosecution wants is a conviction and all the defense wants is justice. We all want justice. We want justice and it's another ploy to try to get you leaning to their side, adopting their side. Sitting in the jury box and think, well, how can we counter what the State's saying. Another phrase in opening was that you are a barrier between the prosecution and the defendant. It's the same thing. Also throughout that process and throughout the trial there are questions asked of witnesses and in particular I remember on Dale Griffis. Well is it possible that this was a sex related crime? Also asked that of Detective Ridge. Is it possible that this could be a serial killer? Is it possible that it happened somewhere else? Is it possible that this was not satanic related?

Ladies and gentlemen, in the instruction that the court has given in reasonable doubt--reasonable doubt is not a mere possible doubt. Anything is possible. But that's not the standard at all. The reason I bring all this up--I, as Mr. Davis asked you during the jury selection process, all that we want is twelve people who are sitting there who are gonna be fair to both sides and impartial. Now I'm not up here saying that well because of these things you're consciously would be anything other than fair. But subconsciously--and that's what those are designed to do, to subconsciously have you leaning in favor of the defense. And all that we ask is that you start as you been through the trial even on both sides.

Now what does the State have to prove? The State has to prove, number one, that with the premeditating and deliberating purpose of causing the deaths of any person--that's number one. What was the state of mind? What was the state of mind? Premeditation and deliberation. And number two, that with that state of mind, Damien Echols on one hand or an accomplish, Jason Baldwin or an accomplish on the other hand, caused the death of Michael Moore, Stevie Branch and Christopher Byers. Now what I wanna do now, is I wanna go through each of those two elements--I wanna go through the evidence and let's just see where we come out.

First, premeditation. All you have to do, ladies and gentlemen, is look at the nature of the injuries that these eight-year-old children suffered to conclude that there was premeditation and deliberation. Now premeditation doesn't mean that before you did it, you sat at home and you thought--well, let's go out today and let's kill three eight-year-old boys. Doesn't mean that. The instruction the court gives you--tells you that premeditation and deliberation, that state of mind, can be formed in an instant. As long as you have got a conscious object to cause death. And that you've weighed in the mind this course of conduct.

Now you might say, well now wait now a minute, you know--they had head injuries, they were beat up bad, drowned. Think about it. You've got a kid who's been--he's got head injuries that are enough to be fatal in and of themselves. One of them's face, the left side of his face is practically gone. And then the other boy has his genital area removed. Now you say, 'Well, what if they just meant to hurt them bad or mutilate them'. Well, once they take one of those boys and they beat him and give him injuries that would be fatal, and then they put him in water tied where he can't do anything but go to the bottom, and he aspirates water, and what do you think he's gonna do, no matter what the head injuries are? Use your common knowledge. What do you think he's gonna do? You think he's just going to sink to the bottom? Don't you think he'd be struggling, and thrashing to get some air? And once they do one--and they see that they know--they know that he's still alive, and they know that putting them in the water is gonna kill 'em. And they've got the conscious object to cause these boys' deaths.

Now, let's talk about Damien Echols or an accomplice, Jason Baldwin or an accomplice, causing the death of these boys. As the court instructs you, some of this evidence is only as to one, some of it as to both. In this case, you've got evidence that at about nine thirty--sometime between nine thirty and ten on May the fifth, this is the area of the crime scene, and somewhere in this area Damien Echols--who by his own admission dresses very distinctively and stands out in a crowd--he is seen by somebody who's seen him hundred of times, Narlene and Anthony Hollingsworth. And he's seen with somebody they identify as Damien's girlfriend. They're muddy, dirty, and they're here about nine thirty or ten, which Damien denies. Now, all of y'all--I don't think any one of you could forget Anthony and Narlene's testimony. I got to thinking about it later, and you know--we laughed, we all laughed. You laughed, we laughed, the defense attorneys laughed, everybody laughed--they were dead serious. And, you don't pick your witnesses--and because they're simple, and they're not highly educated, that should be no reason to discount anything they said. Think about what they said and really how they said it. I submit to you, you'll find that they were highly credible. And that they did see Damien Echols on this service road between nine thirty and ten on May the fifth, 1993. Now, who

he was with--draw your own conclusions. Says his girlfriend and they describe her as having red hair and long. You got a picture of Jason Baldwin at the time of his arrest. Nothing wrong with having long hair and the picture in there is not shown to shown that he's a bad person because he got long hair. But think about that. Think about who Damien was with on May the fifth.

Now, you got Jodee Medford and Christy VanVickle--two kids who were just at the softball field having a good time, this is in May--later part of May and what--what does Christy hear as she's going by. She hears this defendant, Damien Echols, say, "I killed those three boys." And she gets out of there. Jodee, who's walking in a different area, hears him say the first part just like Christy did, and then she hears him say, "and I'm gonna kill two more before I turn myself in and I've already got one picked out." Now you observed their testimony. Those were two scared kids up here. They didn't wanna be here, they didn't wanna be photographed or filmed. Had no motivation to do anything other than come up here and tell you the truth. Even though they didn't want to. They didn't wanna be here, they didn't wanna be involved in this.

But this defendant says this and you might ask yourself, well, now wait a minute. We've got a crime scene that's clean. The killers were very meticulous about removing any evidence, hiding the bicycles, hiding the clothes, hiding the bodies. Why would he stand out there and tell everybody? Well number one, who was he telling? He was telling the group of six or seven of his little groupies that followed him around.

Remember, he says he dresses that way and everything to keep people away from him, but everywhere you look he's got little groupies hanging around him. Now, and you say, well still, why would he say that? Well remember when Mr. Davis was examining him about this manic-depressive situation? And in the manic phase you feel invincible? Nobody can touch you? I submit, ladies and gentlemen that in that manic phase--feeling invincible, he didn't care what he said. Why, he'd already been questioned by the police. Two or three times. They couldn't touch him. They couldn't touch him and he didn't care. Just like he told the police, the killer didn't care.

This is an item of evidence that applies to both defendants, remember Deanna Holcomb--Damien's former girlfriend--she says that she saw this in his pocket. I said, "Well how did you see it in his pocket?" "Well I was hugging him and I felt it in there and I pulled it out." And she identified, she didn't say this was the knife. You remember her testimony. She said it was a knife similar to this.

But you know what--the thing that I submit shows her credibility about this knife is--she said there's one thing different about it though, or maybe there wasn't, there was one thing different--it had a compass. The one that I saw him with had a compass in the end. And do you remember Jim Parker, the man we brought from Chattanooga, whose family had the Parker Knife distributing company and

they distributed knives just like this. When the knife was distributed what did it have? It had a compass. Now, this knife also applies to Jason Baldwin. Where was it found? Where was it found? First of all, you got the drawing on here, Detective Allen drew that, remember that? And he said, 'hey I'm no engineer, I'll just--I'm kind of guestimate', and I think he was just a little off on this spot but the chart by the engineer is more accurate. But you've got this dock right here. This dock right here, which is right behind Jason Baldwin's trailer. And forty-seven feet--not from the dock, but from these trees over here you find this knife. This knife right here. And you say, well maybe it was thrown from this trailer over here--over here--well, this trailer right here you got--remember the testimony about that tree right there they measured from? And you see the picture how it spreads out and he testified was about as tall as this building and that's in May. And then they find it in, what was it, November the seventeenth maybe. Something like that. The most likely spot for this knife to have come from is that dock behind Jason Baldwin's house. Now you say, well--so--you know, Dr. Peretti said this knife or that other knife, either one of them could have caused all those injuries. I will come back later and I wanna show you, and you look at the wounds--remember Mr. Davis, when he was selecting you for the jury, he asked you--you know, would you be able to look at those pictures and look at them closely--look at them closely. I'll come back later and show you, and ask you to look at the pictures, and you'll see that a knife like this--not like that other knife, but a knife like this, with this serration pattern caused the injuries--some of the injuries to Chris Byers.

Now, back on Damien--we got fibers. On Michael Moore's Cub Scout pants and on his Cub Scout hat, you had some fibers an on the--had cotton and polyester, kind of greenish. On the pants you had one green cotton fiber and one green polyester fiber and on the Cub Scout hat you have one green polyester fiber. Remember that little bitty shirt, the shirt about the size of one of these victims. Remember that? That we held up--the greenish blue surf,whatever--that hung in the closet where Damien's clothes hung. It's Michelle's bedroom, but Damien slept in there. But, you remember that shirt? And Lisa Sakevicius testified that those fibers that were found on there were consistent as having come from that shirt. Ya think--well--you know--but the fibers are just consistent, you know--it could have come from hundred of other shirts. Number one, the shirt is poly-cotton. We didn't just find cotton. We didn't just find polyester. We found both polyester and cotton that are consistent as having come from this shirt. Number two, the testimony was that the search of Jason's trailer, getting fabric--and they knew what kind of fibers they were looking for, Lisa Sakevicius did the search herself. You got Jason's place search, you got Damien's place searched, you got Jessie's searched, you've got the Byers house--you got fibers, and you got fibers from the Moore house. And out of all those houses, out of all the clothing in those houses, nothing. Nothing but this one shirt were those fibers matched to. Ask yourself whether that isn't significant.

Then you've got Damien's statements. He talks to the police and does he make an outright confession to the police? No. But what does he tell Detective Durham after he's been questioned for a while. "Look, let me talk to my mother and I'll tell you all about it.--I'll tell you all about it." And then he tells Detective Ridge, when Detective Ridge asked him, "How do you think they died?"--"Mutilation. Two of them probably drowned. One of them was cut up more than the others." Coincidence? He just guessed? Did the police even know that two drowned at that point? Remember reading from the newspaper article trying to suggest, well he got these details out of the newspaper. What did they read to you. Said all of them were sexually mutilated or castrated. Said they were found in water. Wasn't anything about two of them drowning. Wasn't anything about one of them cut up more than the others. And that came from this defendant's over here own mouth.

Let's talk about Jason Baldwin--we've talked about the knife, and that applies to both of them. And then you got Michael Carson. Remember Michael Carson? The guy that was in jail with Damien. He's not up here telling you, hey I'm a little choirboy. He's been in lots of trouble. But you know, ironically, he didn't come forward until all of that was disposed of. He didn't come saying, look, I'll tell you all this if y'all give me a special deal. He didn't wanna get involved. He comes from the kind of raising that you don't snitch--you do not snitch. But, there's just something different, just like Ms. Sakevicius said--she's never had a case like this. Remember they're asking her about going to the search warrants? And she said there's nothing ordinary about this case. Well, in this case, it's not the ordinary case. And Michael Carson, after seeing the effect on the victims' families, felt the need to come forward and tell what he knew. What this defendant Jason Baldwin had told him. About sucking the blood from the kid's penis. And what else did he say? He says he's gonna get Jessie. Because Jessie messed everything up. Didn't say Jessie lied, he said Jessie messed everything up.

Then you got the fiber. Now on the Damien's fiber you got three, but as--I think it was Mr. Kilbourn who testified said that, uh--either Kilbourn or Lisa Sakevicius, said that cotton or polyester are more common. But still, out of all those houses only matched those. But rayon is less common. Lisa Sakevicius said you don't get that very often in the lab. And you got this rayon fiber, this one tiny little fiber found on that black and white polka-dot--or check, whatever it is--shirt of one of these little victims. And they take that tiny little fiber and they compare it microscopically, they look at its shape, it's color, and they tell you that it's consistent from having come from that robe in Jason Baldwin's house. Now, this tiny little fiber--and the defense make a big deal about that--remember them putting the slide in and saying--you know--where is that fiber on there, I can't see it on there.

Well they think it's a big enough fiber that they brought this Charles Linch in from Dallas. To come in here and say, oh well it's not consistent from coming from that source. But now what did Mr. Linch say? He admitted, he talked up here about color. Remember that? All I wanna do is talk about color.

How the color's different. Ran his graph and color's different. Well, he admitted that when I talked to him he said the main difference was shape. Because one end is flattened and the other end is round. He admitted saying that. But when he comes in here after he finds out that Ms. Sakevicus flattened it herself, all of the sudden it's color that's the main thing. That's all he wants to talk about. Says he could not flatten the fiber. He even took a hammer and tried to flatten the fiber. And all Ms. Sakevicius did was take a scalpel and flatten the fiber. He also said that the fiber was round. Mr. Kilbourn told you--they may be round when it comes out and you might--Mr. Kilbourn being real fair to his fellow forensic specialists, or whatever they're called--says, well I guess you could say it is more round than it is square, but you remember the thing it had all the pattern around it. Hardly call it round. And Mr. Linch, in making his decision--they used these graphs, and I don't want to bore y'all or anything, but this is the graph that Ms. Sakevicius ran on the questioned fiber and the known fiber. And you can look at it yourself. Well after Mr. Linch testified and she testified at my request, I had her do--because he's talking about intersections and things like that--I had her take two fibers from that robe and run a graph on them, and what do you end up with? You end up with more than intersection, on this graph of the two that we know for sure came from the robe than on these two questioned. In fact, you look at the two graphs, the questioned and the known matched better than the two you know for sure came from the same robe. And then he says and talking about color, this is his evidence about why they don't match. This graph right here. We offered it as State's Exhibit 125. That graph right there says--well, you know--it came--that's just inconsistent. See those intersections right there? That just can't be. Well again I said, Ms. Sakevicius, would you take two fibers you know come from that robe, flatten one of them, leave the other one round, and run your graph. And what do you get, but a graph with intersections almost identical to the graphs that he runs that says that it means it's not the same. And these are two fibers you know came from the same source--that robe.

And then we brought Mr. Kilbourn, from Alabama--one of the foremost authorities on fibers in this country--twenty-eight, twenty-five, twenty-eight, I don't remember exactly how many years of experience that he's got in this field--and we brought him in to explain this process and to get his opinion. And in his opinion, the fibers were consistent with having come from the same source. And they try to attack him and attack his credibility, but in fact, Mr. Kilbourn has testified--as he testified for the defense in this very judicial district. Didn't matter which side he's on, once he forms an opinion--it didn't matter who it favors, he's gonna testify accurately and according with his information.

Now, we've talked about all this circumstantial evidence--and that circumstantial evidence instruction is really important, and you need to consider that along with all the other instructions, but it is a very important instruction is this case. And, when you consider all those things, and if you'll remember--I believe it was in relation to some of this stuff,satanic stuff, and in questioning--think it was Robert

Hicks, may have been Mr. Griffis too. The defense would say, in and of itself, would this motivate somebody to kill? In and of itself? No. Question after question. In and of itself, would this item of evidence cause somebody to kill? No. In and of itself, does the fibers mean that these are the killers? In and of itself? No. In and of itself, does the knife found behind Jason Baldwin's trailer, in and of itself, mean that he's the killer? No.

But you don't look at it like that. You don't look at each one individually and say, well, in that instruction that says something to the effect of has to exclude every reasonable hypothesis. You don't look at each one individually. You look at them as a whole. Talking about the bridge. I could say it doesn't matter how you get across, you could consider that a bridge. Those kids, that was a bridge. And if you pull one of those highbeams out of there and held it up and said 'is this a bridge'--well no, don't look like a bridge to me--looks like a highbeam, and you picked up the pipe and took it out of context and said, 'is that a bridge'--well no, that's not a bridge. Take the other one, say 'is that a bridge'--say 'no'. Well by the time you get through, wouldn't be anything left. And you say, see I told you it wasn't a bridge. It's the same thing in anything, any way you look at it. No matter what profession. If you look at one small part, you say--well that's not a house. The foundation? Is that a house? No. Is the door a house? No. You don't look at it that way. You look at it as a whole. And we submit when you look at all of the evidence as a whole, that you'll find that this circumstantial evidence says that these defendants committed this murder. And proves beyond a reasonable doubt that these defendants committed this murder.

Now I wanna talk to you a minute about motive. This motive area, it's something that's inconceivable. And it's something that--it's not something that you anxiously look forward to putting on that kind of evidence relating to motive, in this particular case especially. And why is that? This satanic stuff--satanic picture in and of itself does that mean they're Satanists or anything like that? No. This mean in and of itself, Satanist? No. But, why present it? Why present this stuff? And by the way this doesn't have anything to do with Wicca, doesn't have anything to do with it. The reason to present it, is that to try to inflame you all and make you all so angry because it's something different--because it's something different and something we don't understand? Is that why we would present it? No, not at all.

When you looked at those pictures of what was done to those three little boys, could you understand it? Could you have any reason to understand why someone would do that to three eight-year-old boys? Well, you've got three eight-year-old boys done that way, and then you got the defendants looking like choirboys during the trial--during jury selection. In fact, think back to jury selection when the defense trying to say, well, as they sit here right now what do you think about them? And either you or your fellow juror--you heard a fellow juror say, I think they look like typical kids. Well, think

how hard it would be for you to conceive of typical teens doing what was done to these three eight-year-old boys. And I think you'll understand why the need to put on this evidence. It's not something made up, it's not something dreamed up, it's not a figment of our imagination. And it doesn't matter whether I believe it, or the defense attorneys believe it, or you even believe in these concepts. The only thing that matters is what these defendants believe. That's the only thing that matters, in relation to motive. The testimony in this case was that these murders -- when you take the crime scene, the injuries to these kids, the testimony about sucking of blood--and do you remember there was testimony about that--in the satanic areas, that blood is a life force, there is a transference of power from drinking of blood -- when you take all of that together, the evidence was that this murder had the trappings of an occult murder. A satanic murder.

Now, Mr. Hicks from Virginia came in and he says that when you do that--his main complaint, let me back up a minute--his main complaint, if you really listen to what he said--was semantics. It wasn't that this--these were not satanic. What he said was, if you start off with the premise that it's an occult murder--start off with it in the investigation, not prosecution -- investigation, if you start off with that premise then you narrow your focus too much--you eliminate a bunch of people and suspects who should be suspects. You ought to look at the whole picture. There's no evidence that the police did anything or than look at the whole picture here. So what Mr. Hicks was saying is like--how can I explain this--ok, a man comes in finds his wife with another man, and in the heat of passion--in a heat of rage, he kills them both. Well, according to Mr. Hicks' concept, it would be improper to call that a crime of passion. Because it's a crime--a murder is a murder is a murder is a murder. Be improper to call that a crime of passion. He said, don't look at the motivating factor when in assessing what kind of crime it is. He didn't say, in this case, that it was not an occult murder. He did not say that these defendants were not involved in satanic activity. He didn't say any of that. What he says was, he had a problem with calling something an occult murder--he is talking about from the investigating stage, not the prosecution stage.

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...I understood him to say that belief systems were not a motive for murder. Talked about somebody standing over saying "hail mary" ten times or something before they kill somebody saying was that a Christian murder? I don't care what the belief system is. Look at history. Look at hundreds of years of religious history. There have been hundreds of people killed in the name of religion. It is a motivating force. It gives people who want to do evil, want to commit murders, a reason to do what they're doing. For themselves, it gives them a reason--a justification for what they do.

Now let's look at Mr. Griffis. Now, the defense can laugh at his qualification all they want to. They can talk about his mail order degrees--a master in doctor degree, because it was correspondence. Well,

think about the circumstances and what he told you, why he did that. Number one, he had twenty-five to twenty-eight years of experience in law enforcements, and at the time when he got these degrees, he was gonna work in full time as a police officer--at that time. And he wanted to further his education and the schools--the universities, Ohio State and some of those other schools didn't offer courses that were directed toward this particular are the defendant The area that he became interested in through his law enforcement work. What did they want him to do? Quit his job to go to school full time somewhere--somewhere off that did offer these things. And actually the most important part of his qualifications was his link to services in law enforcements. And they can say what they want to, but think about this. And I thought about this, when he was testifying, about how fair he was to these defendants. He said, this symbol right here there's nothing evil about that. That's a Wiccan pentagram. Nothing evil about it at all. But he said, I'm confused. He said, there's nothing evil about that, but these upside down crosses they have nothing to do with Wicca--they're satanic. And that confuses me why they would both be in the same place. Ofcourse, and if you look at the photograph--you saw an upside down cross on this pentagram and if you hold this right you can see the glue where it's still on there--in the form of an upside down cross. And you say, well, you know--does that book really say anything about it? And one thing I want to point out to you before I go further into this book. Remember when I read this silly poem in here? Remember that? I bet all of y'all were thinking, he's lost his mind standing up here reading us a poem written by Damien. In the middle. I wanna read it again to you. And when I do, think about what Dr. Griffis said about him being confused because you got Wiccan, which is the good, and upside down crosses which is satanic.

"In the middle. I want to be in the middle, in neither the black nor the white--in neither the wrong nor the right. To stand right on the line. To be able to go to either side with a moment's notice. I've always been in the black, and in the wrong. I tried to get into the white, but I almost destroyed it because the black tried to follow me. This time I won't let it. I will be in the middle."

That right there tells you Damien Echols. He don't wanna be in the white. He don't wanna be good. He wants to be both, where he can go to the good side or the bad side, however it suits his purpose. If he wants to do bad, let's goes to the satanic side. If he wants to be good, he goes to the Wiccan side. That poem right there tells you about Damien Echols. Now, wanna go back to these in and of itself things. Remember Mr. Price asking, probably Mr. Griffis--about is there anything that would motivate somebody to kill, about a spell about "improving the memory" or about a "love charm," to "stop bleeding," to "improve your chance of success", a "cure for worms"? Are those evil? Well, no. "A cure for cramps," evil? No. He left out one, for some reason. "Sacrifice addressed to Hecate." I don't know why he left that out. Says in here, I'm not gonna read the whole thing to you. It talks about "a friend and companion of darkness. You who rejoice to see the blood flow. Wandering among the

tombs and hours of darkness thirsty for blood, and the terror of mortal men. Look favorably on my sacrifice." I don't know why he didn't read that to y'all.

No, ladies and gentleman, each item of this, in and of itself, doesn't mean somebody would be motivated to murder--not in and of itself. You look at it together and you get--you begin to see inside Damien Echols. You see inside that person. And you look inside there and there's not a soul in there. Not somebody that could commit this murder. And you see what is really there by his own writings --by his own hand.

Now what shows all this? Anything wrong with wearing black in and of itself? No. Anything wrong with the heavy-metal stuff in and of itself? No. The book of shadows anything wrong with that in and of itself? No. But when you take the all-black, sucking blood, the tattoos--interesting thing about the tattoos, he testified he used a razor blade dipped in ink and tattooed a pentagram on his chest, an Egyptian ankh on his chest, I believe it was a cross on his hand--upside down depending on how you hold your hand. I submit to you it takes a certain degree of skill, and something else, to be able to take a razor blade and dip it in ink and do that to yourself.

Said something interesting here in his testimony. The reason he wore all black, said two things. One, he's real self conscious in about how you looked, and he got a headache. Wore all black all the time didn't matter, he got a headache. Well, if that cause him a headache not to wear black he must have an infernal one right now, cause he hasn't worn black during this entire four weeks of trial. He says he wears it to keep people away. Yet, he wears that black in a big overcoat during the hot part of the summer. Does he keep people away? Or at softball fields, where all his little groupies getting up around him--these young people getting up around him, wanting to see what this guy is all about. Scary, that is what it is, scary.

And then you think about, why did he change his name to Damien? Why he studied to be a catholic priest. Remember when the testimony was that that occurred? About when he was sixteen. When was that in relation to the murders? He's eighteen at the time he was arrested. About two years before the murders. When did they say he started dressing in black? About two years before the murders. When did he say--tell ya that he wrote all this stuff? '91--'92, about two years before the murders.

Now I wanna take a few minutes and I wanna go through some of the stuff that the defense has claimed in this case.

Number one, you got Damien claiming, I got an alibi. Says, I was at the Sanders about seven o'clock and then went home and I was home the rest of the night. Says that it's Michelle's room, but I sleep in it--she sleeps out on the couch. She was right there by the door--know wherher I went out or night. They know I didn't go out that night. Well, where did that testimony come from? His momma, Stacy Sanders, and Jennifer Sanders. What did mom say? She said that she talked to the police on May the

twelfth--May the twelfth, one week after the murders. And she told them at that time that on the day before the murders, May the fourth, she and her husband had separated. They'd separated. And that yes they'd been at the Sanders the day of the murders about five thirty or six. Well then, lo and behold, in September she remembers, why they didn't separate on the day before--well that way he wouldn't have been with me when I went to the Sanders. We separated May the ninth. Only three days before the police talked to her. And the reason she remembers cause her husband's birthday. Wonder why her husband didn't come up and testify. When Damien, when he's first talked to by the police, he says yes we were at Sanders from three to five. Just a hodge fodge.

Then you got Stacy Sanders. She says, yes they were there at the house--I was across the street at my cousin Merideth Mckay. Remember that the Sanders, Stacy and Jennifer and their family, they were like sisters to Damien. They had lived for about three years in the same household with Damien and his family. Says, yes they were there, it was May the fifth about seven o'clock--I just happened to look out the window, I was over at the Mckay's--I looked out the window and saw three people go in and Damien was one of them. And then I just happened to look out again when they were coming out. And they were coming out all together and they got in the car together and left. And all of them, there's mom, dad and Damien--all there. But then, when she's talked to by us and we say, all right when did this happen, you know--when did this happen in relation to the murders? Or what happened next? Well, two days after this, I saw them at the Sanders--two days after this Damien was arrested. Well, you know he wasn't arrested til June the third.

Then you got Jennifer Sanders. And her testimony may have been the most interesting and, I don't think she meant to--but maybe the most telling testimony of all. She says that, yes on May the fifth, Damien was there seven o'clock just like everyone else, you know--right down the line. Everybody was just alike. But what else did she say? How do you remember, do you remember the day before? No. Do you remember the day after? Yes. I remember positively the day after that 'cause my boyfriend band concert was there. My boyfriend Nick GarzTHE DEFENDANT: And he plays in the band and the concert was up there by the hospital in West Memphis. Well, when was the band concert? Wasn't May the sixth. It was Monday, May the seventeenth. That puts it later when this would have happened about Damien being over at the Sanders, not May the fifth.

But the interesting thing was, all these people--Randy Sanders, the daughters, maybe Ms. Hutchison said it too. All of them said, why this was the first time--the night that Damien and his family went over to the Sanders, this was the first time that they'd been to Splash Casino. They tied it to Splash casino. Well Mr. Davis, in talking to Jennifer Sanders on this witness stand says 'Well now, Jennifer had you parents been to Splash Casino before that--didn't you tell officers they'd been before?' Yes. They had been before this incident where Damien and his family came over. And what happened that

night? Sometime after dark Damien, Jason and a third boy come over to the house. All dressed in black. Was Jennifer Sanders telling you about May the fifth when Damien and his family came over or May the fifth when Damien and Jason and the third boy came over?

A lot of the defense has been what I call smoke. Mr. Ford in his opening statement alluded to putting together, this is a trial, like putting together the pieces of a puzzle. I'm not very good putting together those jigsaw puzzles. But when you got a puzzle, you got the pieces laying out on the floor. And you're putting it together and you're following that completed picture, and then along somebody comes with three or four other puzzles and dumps all their pieces out there too. Makes it kind of hard to put yours together, doesn't it? Well that's what the defense has tried to do in this case. They've tried to dump pieces from somebody else puzzle all in this case.

Mark Byers. They want to accuse one of the victims' fathers of having committed this murder. They bring in a knife that he gave as a gift to somebody--not trying to hide it or throw it away--gave it as a gift one of the cameramen in this HBO deal. You heard him testify. They didn't even have the guts to ask him directly whether he killed his son. They're gonna do it by innuendo. And everything else. But it's just like, when Mr. Davis asked Damien about blowing a kiss to the families--that's Damien's way of blowing a kiss to Mark Byers. I'm gonna accuses you publically and in this courtroom of killing your own son.

The defense says that the police had Damien tunnel vision. Well, the testimony's been that Damien, at the beginning, was one of many suspects. Not the suspect, but one of many suspects. Just so happened that every way, every lead, every turn kept leading back to Damien.

Another sack of puzzles. You remember that hours of stuff we went through on the sacks? They'd go through each sack, "now Detective Ridge, what did you do with the clothes you got?" "I put it in the sack, set to the side". And then after I would ask him about one sack, the defense would have to get up and ask him all kinds of questions--about, well now did you change it out of the sack, did you do this, did you hold it up, did you set it on the ground. All that stuff. Where did you get the sacks. All that nonsense. Well were they trying to show that somehow the police uh--changed sacks. Or somehow something else happened. Well all the proof has been that those are the same sacks, they even tried to suggest--oh there's no mud on here. And then we pulled the clothes out, remember the testimony about looking at the sack and there's mud on the bottom--some dried mud on the bottom of the sack. All that is, that hours of stuff going through the sacks is to try to confuse the issues.

Police ineptitude. Were there mistakes made? Sure. There's never been anything done--an investigation or a uh--a lawyer's product or anything else--there's never been anything done in this world that there hasn't been some mistakes made. There's always mistakes made. The question that you have to ask yourself is, are the mistakes material? Are they material, do they matter? You've got

thousands of pages of paper, you've got hundreds of people who were questioned and what they came up with was, when Damien was talked to, there was no recording. Well until--as Detective Ridge testified, until he answered the questions the way he did, he was not a suspect. But because of the way he answered those questions--saying two drowned and one cut up more than the others, he certainly became a suspect. Would it have been nice to have recording? Sure. And, believe it or not--despite paying eight-thousand dollars for whatever it was, the man from North Carolina about the DNA, who basically--remember the negative evidence I talked to you about in opening statement? That there would be stuff, kind of said, well we tried this but we didn't get it, and why would we do that. The fingerprints, no fingerprints, why would we do that? Why do we waste your time putting on that evidence? Well if we don't, the defense gets up and say, well they didn't even test for fingerprints. Oh if they had only done DNA on that skin fragment we would know for sure. We would know. Well the reason for that--that evidence, is to show you the efforts made to procure evidence.

They complain about the line up procedure. Well I could understand, if there'd been a witness get up here and say, "yes I identify these guys--I identify them, and I saw them in a line up and I identified them". Then that line up procedure would have been important. But you didn't hear any witnesses like that. They wanna ask you about people that didn't even testify in the case. Who for all we know had nothing to do with anything. One of them was a woman who had seen the kids on the other--or had seen somebody, on the other side of the interstate. She say, I can't say whether it was them or not. Then they got the Blue Beacon employees who worked from eight to four who were shown a line up. And they said they didn't see anybody. So what difference does it make?

Then they complain about the audio surveillance, why they didn't transcribe that tape. Well, obviously they've had access to everything we had. If there was something on there don't you think they would have--if it could have been transcribed, don't you think they would have done it? Wasn't anything on there, you couldn't hear anything. That was what the testimony was. And what efforts did the police make? Keep in mind that these experts--the fingerprint man, the serologist and Lisa Sakevicius, the fiber expert, all testified that the most destructive thing--or one of the most destructive things there were to finding evidence, was water. And where was all of the evidence? In water. The boys bodies, their clothes, their bicycles, even these sticks--all of it in the water. The knife, this knife right here--in the water. The officers not only sent things for DNA, they did this grid search where they walked shoulder-to-shoulder through that entire place--nothing. Nothing. They used a magnet on the big bayou. They used--they drained the creek itself, used metal detector, and ofcouse they had divers who did the dives. These officers worked hundred of hours, and for the defense to come in here and try to confuse you and throw all this stuff out here about police ineptitude and they did this--they did that--in the overall scheme of things, it doesn't amount to a hill of beans.

The defense also wants to suggest, somehow this was a serial killer. Well, number one, I submit to you the proof shows that one person not only did not commit this crime--but could not. One person--to believe that one person did this, you'd have to believe that one person controlled three active eight-year-olds. Number one. Number two, you've got evidence that there were multiple weapons used. It doesn't take a brain surgeon to know that the weapons used on the left side of the head and the weapon on the right side of Michael Moore's head were not the same. Use your common knowledge and common sense. Uh--you can look and see that by looking at it. You had those two, you've got a knife--you got at least--at least three different weapons.

And then you got the knots. Remember us going--spending all that time talking about the knots and the different knots? Well, on one of the kids--Christopher Byers, you got double half hitches--right wrist right ankle. Same thing--left wrist left ankle. Tied identically. Then you move to Michael Moore. You've got on the left--he's got square knots on his wrist and square knots on his ankle. Identical on that left side. On the right side, he's got half hitches both places. And then you've got Stevie Branch. On the left side, he's got half hitches. And on the right side, it looks like the village idiot tied it--you've got on one, half hitch with a loop and on the other--one of them, three half hitches and you've got this figure eight all wrapped around there.

And once you conclude that it was more than one, what type of groups--do serial killers run in packs? They run in groups? I submit not. What kind of people would be motivated or have the motivation to do this? Well, if you go back to the, this--the motive issue, and you look at these defendants, it makes perfect sense. Somebody that would take the beliefs, that--the satanic beliefs, even if he does it just part time, is a perfect motivation. Not that it was some kind of a ritual and you have an alter and all that, although, remember them asking about the candles? And lo and behold there was candle wax on the black and white dotted shirt. Remember Lisa Sakevicius testifying about the candle wax? But it doesn't matter whether it was a ritual or simply those beliefs motivated these defendants to commit this crime.

And if you'll think--think back, remember when Mr. Davis was cross examining Damien Echols? And he said, on the sheet of paper that you wrote in jail whose names are on there? Damien Echols, obviously somebody close to him. Jason Baldwin, his best friend. Damian Seth Azariah Echols, this defendant's son. And who was the last one? On this sheet of paper that only contained these names of people close to him, Aleister Crowley. And who was Aleister Crowley? He was the guy, if you'll remember when Damien told the police--they asked him was there any significance to the fact that they were young, an Damien said, "the younger the victim, the more innocent--the more innocent the victim, the more power the killer gets from the killing". And when I asked Dale Griffis had he heard a statement like that, what did he say? He said, that's Aleister Crowley. Aleister Crowley, the

proponent of human sacrifice who says that the younger the victim, the better. Now whether it was a sacrifice or ritualistic sacrifice or simply those beliefs motivating this defendant, don't matter. He's the one with the beliefs and if you think about that piece of paper with only names of people close to him on there. And then the name Aleister Crowley.

Now also, they've tried to suggest that somehow this happened somewhere else. Well, as the testimony indicated--first you got interstate, this Blue Beacon truck wash, wheat field over here, and then this bayou here--the only way across the bayou is that pipe. Now, imagine if you will, this happening somewhere else. And somebody carrying three eight-year-old boys across this pipe, and then taking them in here and leaving them. Or imagine--even still, this well-lit Blue Beacon truck wash, them bringing these boys in here--who disappeared, were last seen between six and six-thirty--bringing them in here, through here. Or, coming from the wheat field. But officers walked that, remember they walked that field. They didn't go the whole field, but over on the edge of the woods, they did their arms length thing, where they walked from the ditch to the interstate. No tracks, no vehicle tracks. Are they saying that somebody walked from the interstate carrying three eight-year-old boys? How are they gonna get them in there? And if it happened over here, well how did the people--how did the murderers know about the kids' bicycles? And if they abducted them over here on the south side of the ditch, and they put the bicycles into the pipe then--do you really believe that somebody's gonna abduct three eight-year-old boys, do what they did to them and then bring them right back to the same area where people are searching? Use your common sense. And you have the answer to that.

Then you've got evidence, the clothes were cramped down in the mud--they're trying to hide this, there's that area--remember the testimony about the area--the bank, where the mud was smeared around, there weren't leaves. And it was clean looking, and shiny, and had these swirls and scuffs. You can look at these pictures and you can see exactly what those officers were testifying about and talking about. Where it looks like the area has been cleaned, whether the water's been splashed up there and they swirl it around, or what. In this picture--and these pictures aren't--I know you don't wanna look at them--look at these pictures ever again. But for this you have to. I'm sorry. When you look at it, it's obvious that this area is not natural. It has been cleaned. And when I say cleaned, I'm not talking about brooms and all that, I'm talking about splashing water there and scuffing the feet around and with the hands. And in this picture, the one that's so dark they say it's meaningless, right here, it's almost like there's a line, where over here it's shiny, and over here it's just dark. And that's the area, right there where Michael Moore's little body was found--is where this area is.

And another piece of evidence that shows this cleaning process--Detective Allen pointing to the area where Michael Moore's body was found, and in the picture you notice there's a little bit of debris

floating here, but in general, the water--the surface of the water, besides being muddy, is pretty clear. You don't have a lot of leaves or bark pieces or anything like that floating on the surface. But as you move downstream, remember this slowly moving water and Michael Moore is the northern most. This one, you can't see it well, but you can see all sorts of debris in the water downstream from where Michael Moore is. When you get down to Stevie Branch there's even more debris in the water. Where did all that debris come from when up by where Michael Moore found the water is clear. And Chris Byers, even more debris. That came from the water being splashed up there on that bank and all of that stuff washing into the water. You say, well, why didn't it just stay up there where Michael Moore was? Remember the water moving slowly? It's moving very slowly. And it gradually moved downstream.

Now, we had testimony about time of death. And really, the way the testimony came down, it really didn't seem like when they were killed mattered all that much. But, fact is Dr. Peretti, for some reason, gave you an opinion that time of death was between one and five THE DEFENDANT: m. in the morning. But when you look at what he really said, it sound like a real big deal when he said it, Mr. Ford even had me fooled. But when you look at what he really said--talked about how it was an art and not a science and it's very subjective and he's just going by one fact that was put in the report. That one fact--now what one fact was he talking about? The one fact was lividity. But for some reason--and this is the thing that's so inconceivable, as Mr. Davis asked him, "Did you in fact not tell us at that time, that you could not an accurate estimation as to the time of death based on one factor". And what was his answer? "That's right." He tells us he can't do it. And then on the witness stand up here all of a sudden--boom--why if I got to base it on that one factor, it would be one to five THE DEFENDANT: m. A shocking development. When he tells us he can't do it. He couldn't do it. Why did he do that? Why? I don't know. Got me. And then he says, again, that that one factor was lividity. And then you look further and when he's talking about the information that he had on lividity, and about basing his opinion on lividity--one that one factor, what does he say? Now, I'm talking about right down here. "We are building a house starting with the roof and not with the foundation." He himself tells you that this is not the way to do it. But if he had to give an opinion based on that one factor, that was his opinion. You also heard Dr. Jennings testify that lividity was the worst of the worst to base an opinion on.

The proof shows, ladies and gentlemen, that--and I submit that the proof shows that these boys died sometime between six and eight o'clock. You don't have to set aside your common knowledge. If something--somebody labeled as an expert says doesn't make sense, look at it and say, well, you know--what way would that happen. Is he saying they held the little boys out in the woods. Didn't have any mosquito bites. Didn't have any of those. And then if you say, well it happened somewhere

else, then you get into all that scenario about well, how in the world did they get them back and why in the world would they bring them back to the place where they abducted them. Or even the general area, where people are looking for them. And if they were gonna bring them across the pipe and the bicycles were there in the water, what's the best place. You got that deep, running water. The best place to dump them if you're gonna do that would be right there in the ten mile bayou. They would have been downstream, nobody would have even known where it happened.

Now, I wanna talk a minute about these knives.

MR. FORD: Your Honor, may we approach the bench?

(THE FOLLOWING DISCUSSION WAS HELD AT THE BENCH OUT OF THE HEARING OF THE JURY.)

MR. FORD: Your Honor, this grapefruit demonstration is not evidence. That grapefruit is not in evidence. This demonstration is not in evidence. It's not scientific. It's not reliable.

THE COURT: I don't know what he's going to do.

MR. FOGLEMAN: Well, I'm going to show the jury, your Honor, the marks that this knife makes when it strikes something.

MR. DAVIDSON: That's improper, your Honor.

MR. FORD: That's improper, your Honor. That is improper.

MR. FOGLEMAN: This is for demonstrative purposes and --

MR. FORD: It is not either. He's trying to make a demonstration---

MR. DAVIDSON: ---expert---

MR. FORD: --That is improper, your Honor.

THE COURT: I'm not sure as. What is your reason for it being improper? I think you can use a demonstrative evidence.

MR. FORD: You can make demonstrations and experiments in front of the jury. Those have to be under Rule Seven Hundred series -- experiments. That's what he's doing. He's conducting an experiment.

MR. FOGLEMAN: It's not an experiment. It's not even evidence.

MR. FORD: Your Honor, this is improper. We ask that he be restricted from doing it.

MR. FOGLEMAN: It's argument.

THE COURT: I'm going to take a ten minute recess at this time. Do you want to take it back there? Do you want to continue on?

MR. FOGLEMAN: I want to continue, Your Honor. I'm almost finished.

THE COURT: Alright. I'm going -- tell me again what you're going to do so I'll know.

MR. FORD: Your Honor, don't do it -- just go ahead and make your point where the jury hears you before the Judge tells you it's improper.

MR. FOGLEMAN: I'm just going to show the types of marks that this knife makes and that knife makes. That's all, your Honor.

MR. FORD: That's a demonstration and experiment.

THE COURT: Well, overruled. I'm going to allow it.

(RETURN TO OPEN COURT)

MR. FOGLEMAN: I told you we would be getting back to this knife. And this is one of those deals where y'all are gonna have to look at some of those pictures. And you may even have to study some of them back in the jury room.

THE COURT: Refer to it by exhibit number.

FOGLEMAN: Exhibit 77.

THE COURT: Alright.

FOGLEMAN: There are--if you'll look at those photographs, there are marks on Christopher Byers where you've got like a dash--where it's a cut--a cut and open space, a cut and an open space. And if you take this knife (INDICATING) and do that (INDICATING) then you look closely you can see it leaves a cut and an open space, a cut and an open space. Now if you take this knife (INDICATING)---

THE COURT: Exhibit number.

MR. FOGLEMAN: ---Defense Exhibit 6, and even with the slightest pressure, it makes a straight line. If you just press enough to break the skin of the grapefruit it makes a straight line, a curvy straight line. If you take it and just barely move it, it makes something like that but the spaces in between are very short. You look--use your common sense. Look at these two knives. Are you gonna expect to find similar markings from those two knives. You don't have to be an expert to see that--that this knife is gonna make markedly different marks than this knife. This is the picture, the area circled--dash, dash, dash, dash. Now keep in mind one thing, when you go back in the jury room, get your--this is not to scale right here. (INDICATING) Now I'm gonna be fair. If I lay this up here, boy you'll think--boy, that's sharp. And just matches, just practically perfectly.

But now listen, now. This is not one-to-one. Keep in mind this is a rounded leg. So there's a little bit of distortion. But if you take this, and take a piece of paper--get your ruler back there and measure the spaces on here, you're gonna find that in between each of these blade is a quarter inch and the blade itself is three-sixteenths. Take a little piece of paper, and on this scale right here--not on your ruler, but on this scale--go three-sixteenths and a quarter, and three-sixteenths and a quarter and where your three-sixteenths are, make a straight line--just like this would be. (INDICATING.) And then, on

the flat part right here (INDICATING) these two that are larger, if you do it--think about, it's rounded. This strikes a rounded surface. The ones on the end are only gonna have part of the blade. Take that, and you lay it on the two larger cuts and you're gonna find that they match. They fit. That is one example of how this knife matches--not just a little bit, but so much more than that knife or any other serrated knife.

Now, I'm saying that that shows, that this exact knife caused it--now I submit the proof that shows this knife caused this--but true, it could be another knife like this, but I submit to you the proof--the circumstantial evidence shows that this knife--State's Exhibit 77, caused those injuries right there. (INDICATING.) Now, if you look at those, there are similar injuries right here. (INDICATING.) And look at the gap between that cut and that cut. (INDICATING.) Now, you're gonna have a harder time on this particular one because see in the picture how the ruler is bent. (INDICATING.) They've got it pushed down so you're gonna have distortion in the measurements. But look at this one--and then there's another one on here that is almost as telling as these and those on that picture. (INDICATING.) This is State's Exhibit 71C. See this wound right here? (INDICATING.) See how wide and jagged and gouged that wound is? See that? (INDICATING.) Well, you take this knife and drag it across with a serrated edge and boy you've got a straight line. Take this knife and drag it and it rips and tears just like in the picture.

Ladies and gentlemen, you go back there and look at those pictures, and as Mr. Davis asked you in jury selection--look at those pictures closely. Now there's another way that these knives can make markings and that's scrapes. And you'll see that--that this knife has a vastly different pattern if it's scraped against the skin than this knife. (INDICATING.) And it's obvious just by looking at it. You got a larger gap and then you've got two narrow gaps--two narrow gaps, a large gap, two narrow gaps, a large gap. For this one you've got--it's pretty uniform, and you've got a quarter inch, three sixteenths, quarter inch--it's uniform all the way down. Where this one you would have a large gap, then you've got the blade which is smaller, and then the larger gap. This one you've got a number of different blade patterns and it's going to make a completely different scrape than this knife. (INDICATING.)

Finally, ladies and gentlemen, in conclusion, when you go back there, ladies and gentlemen, look at all of this evidence. It's been a long trial and I know we're all ready to -- for it to be over for all of us. Take the time to go through the evidence and look at it and ask yourself, "Is it a coincidence that this knife is found behind -- in the lake hidden -- behind Jason Baldwin's house?" And the same person that this knife is found behind is the person that told Michael Carson that he did it and he sucked the blood out of the kid's penis. Is that a coincidence?

And is it also a coincidence that this little red rayon fiber -- little red rayon fiber -- is that a coincidence that that is consistent with having come from a robe from his house? Are all of those coincidences?

Is it a coincidence that Damien Echols was seen with a knife just like this a year or so before? Is it a coincidence that Damien Echols was heard saying that he did it and he meant to do two more? Is it a coincidence that you find fibers in Damien's house that are consistent with having come from that shirt right there? (INDICATING.) Is it a coincidence that Narlene Hollingsworth saw Damien and another person with long hair walking there on the service road that night? Are all of those coincidences? All of them, are they all coincidences?

And you think about that little red rayon fiber. There's an old story about Paul Revere and his ride and all of that, riding through the area there to save us and -- because the British were coming -- the redcoats were coming. There's an old story that goes -- and on that ride instead of it happening like it did, a little nail -- a little nail came out of his horseshoe -- came out of a horseshoe and as a result of that nail coming out that horse threw a shoe and then the horse threw Paul Revere -- threw the rider that was going through warning people, "The redcoats are coming. The redcoats are coming." And as a result of the rider being thrown, this country's not here. It's not this country. All because of that little nail.

I submit to you, ladies and gentlemen, that little red rayon fiber is like that nail. And I ask you, ladies and gentlemen, after all of this is over is that you go in there and you deliberate and you look at that evidence carefully from both sides, not just in favor of us. Look at it hard and ask yourself those hard questions.

And I submit to you, ladies and gentlemen, that you will come back convinced beyond a reasonable doubt that this two defendants, Damien Echols and Jason Baldwin, caused the deaths of Michael Moore, and Stevie Branch, and Christopher Byers and they did it with premeditation and deliberation. Thank you.

THE COURT: Alright, ladies and gentlemen, let's take a ten minute recess at this time.

(RECESS)

Closing Argument of Val Price

Ladies and gentlemen, this will be the only opportunity that I'll have to make a closing argument on behalf of my client, Damien Echols. And the reason for that is because since the State has the burden of proof, Mr. Fogleman did the introductory closing argument and after I do mine, Mr. Ford will do one on behalf of Mr. Baldwin, and Mr. Davis will have a chance to get back up here and do the final closing argument. Be sure when you listen to these statements that he makes, realize that we will not have a chance to come back up here and respond to those things that he brings up.

I want you to think back to this time, think back what you thought about this case, back on May the 5th, back on June the 3rd, back on February 22nd of this year when you appeared in this court to begin the jury selection process. In most cases, we have, we try to get a jury that knows nothing about a case. And we try to do a selecting and a screening process to try to get jurors who are not familiar with the case. In this case, because of the nature of the case, there was a tremendous amount of publicity. But each of you, when you came to the jury selection, each of you said that you would base your decision only on the evidence brought forth at this trial. Because if there's any of you that will think back to other things you've heard about, other things that you've read about, other things that you've talked about, then there's no reason for me to continue, I may as well just sit back down. Because this was a trial on the evidence introduced at this court, in that jury stand, and these exhibits. Let's review the evidence, and when we do that, let's keep in mind the State has the burden of proof to prove beyond a reasonable doubt that Damien Echols is guilty of this crime. It's important to review the evidence, it's also important -- all the jury instructions are obviously very important, a couple of them I want to remind you about at this time that I think are, particularly in a case like this, will be more important than normal.

The definition of reasonable doubt, a portion of it is: the jury is satisfied beyond a reasonable doubt if after an impartial consideration of all the evidence, he has an abiding conviction of the truth of the charge. Also think of that in conjunction with circumstantial evidence. A fact is established by circumstantial evidence when its existence is reasonably be inferred from the other facts proved in the case. However, circumstantial evidence must be consistent with the guilt of the defendant and inconsistent with any other reasonable conclusion. The elements that the State has to prove are two-fold. One, that with Mr. Echols or an accomplice had premeditation or a deliberated purpose. That two, that Mr. Echols or an accomplice caused the death of these three boys.

We told you in the opening we were going to be presuming four different things in this case and we've done that. One, would be Damien Echols tunnel vision. A second, that Damien Echols was kinda weird. A third, police ineptitude, and that -- particularly that area dealt with other suspects. And fourth, no proof beyond a reasonable doubt. Obviously all the evidence can't fit neatly into any of those categories, and some things, some won't -- uh, be a part of one category or another. But let's try to review the evidence and think of those terms.

First of all we have, we brought forth the existence of other suspects. And the reason we did that? Is because the existence of other suspects could be reasonable doubt. One of the things we brought forth is testimony concerning John Mark Byers. This is not an attempt on behalf of the defense to go after anybody without any basis. But we brought forth evidence that this particular knife here, Defendant's

E-6, we had testimony from Dr. Peretti, that some of the injuries on Christopher Byers were consistent with this type of knife.

We also had the testimony that there was blood, which later tested to be DNA, and that was consistent with Chris Byers and also John Mark Byers. Now where was that blood, where was that DNA? Was it on the blade part that could have been easily wiped off? No. The blood was back -- the testimony was, back in the hinge. And it was real hard to get to. We also had the testimony -- was that the only evidence about this knife? No.

There was the testimony where Dr. Peretti said he saw a red fiber in this knife. Was that red fiber ever tested by the Crime Lab? No. In addition, we have the testimony of Dr. Peretti that some -- from this witness stand up here -- some of the injuries on Chris Byers were consistent with a knife of this type. That was the testimony of Dr. Peretti.

We also asked John Mark Byers about statements that he'd given the police. When he testified on the stand, he testified that he injured his thumb while making beef jerky back at Thanksgiving. Okay, and then we asked him about the previous statements he gave the police on two different occasions. There's times, the police interviewed him back in May, right after the bodies were found. Officer Ridge said, "We have evidence that you're involved, we think you're a suspect," and they asked him about it. In addition, all the way -- January, middle part of January -- they again, ask him about this specific knife. And what did Mr. Byers say at that time? Mr. Byers said, "There's no way my blood could be on that knife. There's no way Christopher's blood could be on that knife. I have no idea how any blood could be on that knife."

And I think the -- this is -- the evidence -- the possibility of John Mark Byers as a suspect is certainly an aspect of reasonable doubt in this case. And we also, there was some testimony from Inspector Gitchell as to why was John Mark Byers questioned. Well, Gitchell said that, "Number one, is that any time we read somebody their rights, they're a suspect." So back in January of this year, John Mark Byers was still a suspect according to the West Memphis Police Department. In addition, we asked Gitchell, you know, Gitchell testified, "It was my job to track down all leads. To check all possibilities." But he said, not only once, but I think it was on two occasions from that very witness stand, "The only reason I questioned John Mark Byers is because Dan Stidham asked me to." Now, was Inspector Ridge in fact checking all possible suspects? Or was he only doing this just because some lawyer happened to ask him to do that? Or was there other evidence indicating that Mr. Byers might've been a suspect?

In addition, we have the testimony of Mr. Byers' whereabouts that evening. He testified he left about -- that at one time he left to try to find Christopher, came back, and then he left about 8:30. Of course, he testified it was dark at 8:30. So what's he do when he leaves the house at 8:30? He leaves, still

wearing shorts, still wearing flip-flops, still without a flashlight. Course he leaves and it's dark, and then he says later on he went back. I think the questionable whereabouts of John Mark Byers is important. The State has alluded that the time of death was between six and eight o'clock. Has there been any evidence whatsoever from this witness stand that that was the time of death? I submit to you no. I submit to you the defense does not have to prove when time of death occurred. That's something that the State has to do.

In addition, we not only pursued John Mark Byers as a possible suspect, we also pursued the man at Bojangles. There was testimony that a man came in about 9:15, to Bojangles Restaurant, with blood all over him, and with mud all over him. The testimony was that he was a black man. He went in, he was disoriented, he went into the ladies' bathroom, he left blood all over the bathroom walls, he got blood on the toilet paper, he also left some sunglasses. So what does Marty King the manager do? He calls the police department. Regenia Meek has already gotten the report about one of boys being missing, drives through the drive part, gets some of the information, but Regenia Meek doesn't pursue it all.

And then, it's not 'til the next day that Marty King mentions to a friend of his, "What about this blood? What about this person who came by?" And then somehow, later on on the day the bodies were found, Mike Allen and Detective Ridge showed up at the Bojangles to question. Now what did they do? Number one, they took blood samples. They went in the bathroom and they took two or three different blood samples. Where's the blood samples? Ridge testified, "I lost it. I lost it." The fact that blood -- in this particular case, why is, are these blood samples so important. What other evidence had the West Memphis Police Department come up with, with any kind of blood other than perhaps the blood at Bojangles? Their whole theory is, there was no blood at the crime scene, must've all been cleaned up. And yet, with less than a mile from the crime scene, somebody comes in and has blood on him, they lose that blood, we don't have that blood, there's no way to have that blood tested.

In addition, Marty King says, not only did they get the blood samples, but I gave 'em the sunglasses, the guy left a pair of sunglasses. You ever seen fingerprints on sunglasses? You ever seen hair maybe caught up in the corner hinges part of glasses? And where is the sunglasses? Well, the police department as to that aspect say, "We didn't get any sunglasses, we don't know anything about any sunglasses." Is that all the evidence of a black male involvement? I submit that there's two other things.

Lisa Sakevicius had testified, and Dr. Peretti testified there was a black, a negro hair found on the sheet which was used to transport Chris Byers to the Crime Lab. There's been no testimony that that hair's matched up with anybody. Perhaps that hair matched up with this gentle -- the man at Bojangles. And that is certainly, is a reasonable doubt.

Now was this something that the defense just made up? Maybe that we're pursuing these, these other possibilities trying to throw some doubt and just, do a little defense-type stuff. Well, were we the only people that were interested in this? What happened back on May 26th, Gitchell wrote a letter to the Crime Lab and said, "Is there any evidence of a black male involvement?" That was something that the West Memphis Police Department was also trying to pursue.

They testified, we tracked down hundreds and hundreds of leads. But if you look at this, what other individuals were possibly in the area? Where did this take place? The bodies were found in the area, based on the testimony, fifty yards from the Blue Beacon Truck Wash, a hundred yards from a truck stop, Love's Truck Stop. Right on a major interstate, actually at the crossing of two interstates, at which you have hitch hikers, you have truckers. Wonder what kind of knots those were, wonder if those perhaps were truckers knots which were used to tie up the bodies. The fact that there were three different types of knots, or four different types of knots used, does that mean three or four different people tied 'em? Perhaps. Does that mean that the same person tied different knots? Perhaps. But the fact that, um, that it's common knowledge that truckers use knots, that's a possibility for those knots.

In addition, we have the crime scene itself where the bodies were found. What evidence was there, and what evidence was not there. Now we had the evidence on picture number twenty-eight, that showed the area, this is the scuff mark. This must have been cleaned up by somebody who did this. Well, it's a possibility it could have been cleaned up, but it's also a possibility nothing ever happened right in this areTHE DEFENDANT: If you, the -- based on the testimony of the type of injuries that occurred on the boys, there must've been some kind of struggle that took place, obviously. There were several injuries obviously from knives, from other objects, perhaps sticks, perhaps other objects, perhaps baseball bats. But was there any evidence at this crime scene area, that this is where they were beaten, or stabbed, or cut? No. There's been no evidence whatsoever.

As a matter of fact, what else is here? What very important piece of evidence that the police kinda want to just bury under all the rest of this? That shoe print. Now, what kind of print was that? That was a tennis shoe print. The testimony when my client was arrested he had on boots. All the testimony was boots, black boots, were generally what my client wore. And those black boots did not match up from that tennis shoe print. And that tennis shoe print was found right at the area where the bodies were thrown in. Is there -- I submit to you that the existence of that tennis shoe print, of which the police, not only did they take some pictures of it, they got a cast of it, and they know for a fact, that did not match up my client's boots or anything else found in my client's house. Cause you know if there'd been a match, there'd have been testimony about that. We don't have to prove who killed these boys. The State has to prove my client did. And I submit to you the existence of that tennis shoe print, that doesn't match my client's boot prints, is reasonable doubt.

In addition, the State, at some point -- of course this was later on in the trial -- decided to put forth testimony about the motive. Now the State's not required to put on motive, so if the State's not required to put on motive, obviously the defense is not required to disprove motive, but they can if they want to. And the motive that the State tried to allude to, that this was a, let's see, the "trappings of occultism" killing. Is there anything else, anything, here at this crime scene indicating an occult killing? Do you see any pentagrams out here? Do you see any nine foot circles?

Is there any indication whatsoever, is there any indication that the boys were killed out here? We had Dr. Peretti's testimony. He was asked, about, if there were three possibilities. One, that the boys were killed in the water. That could explain why no blood was on the ground. But he also testified that the injuries, particularly the injury to the penis, was very, very difficult even for him to do. He testified it would take him about ten or twelve minutes to do if you had somebody that was very familiar with surgical instruments. And if he was in his lab doing that. Also if you look at, then, perhaps, it took place on the ground. But there's no blood on the ground. That third possibility is that these murders took place someplace else. And that is a, that's not an imaginary doubt, that is a real doubt, that is a reasonable possibility of what took place in this crime.

We also have time of death. The testimony from Dr. Peretti, the State's own witness, in his opinion, based on the limited information, and Dr. Peretti was very quick to say that the information was limited, that the time of death was between 1:00AM and 5:00AM. Now, you had Dr. Jennings get up, and did Dr. Jennings say, "No, that's not the time of death." He never said that. Did Dr. Jennings get up and say, "The time of death was between 6:00 and 8:00PM on May the 5th." He never said that. He said that the factor, of which Dr. Peretti used, lividity, that is, is not, is usually the worst factor to consider, and then Dr. Jennings went on to say, "However, if you're comparing lividity, you check several things. You check the number of times you press the body, the location where you check it." He also said body temperature is very important. We have a situation where the bodies were found at one o'clock and the med - and the coroner doesn't get out there until four o'clock, a three hour time difference. It's not the fault of my client that the -- as part of the police ineptitude that we don't know what -- we don't have the proper information to tell the time of death. I submit to you, although the State wants to say time of death is just not really relevant here, I submit to you time of death is very relevant. Is very relevant here. Because there's no proof the murders took place between six and eight. The State has alluded that in their questions, but nobody has testified to that.

In addition, also, what was out at the crime scene? We had the pants. We had the pants of two of the boys were turned inside out. Were zipped up and buttoned up. Now what does that mean? Was there any evidence of a struggle? I got out the pants and I got out the shirts. And I asked several of the witnesses, "Any tears?" "No." "Any scrapes?" "No." "Compare the pic -- the wounds on the bodies

with the wounds on the clothing." "No." So what does that mean? Does that mean that the clothes were taken off before the injuries took place? If they were taken off as part of a struggle, wouldn't there be tears? Wouldn't there be damages to the clothing? But the fact that they weren't, what does that mean? Does that mean that the clothes were taken off in the presence of someone that knew the boys? That certainly is a reasonable possibility.

Also, the clothing that was found, of course we have one pair of underwear that was found, two pair of underwear that was not. Of course, Dr. Griffis had testified that, if it's a serial killing, sometimes a serial killer will take a souvenir. Perhaps that's a reasonable possibility.

We also have, in this case, is there any proof that it really was cleaned up here? What would it have taken to clean this area up? Is the State contending that my client with his black boots rubbed the boots all across here and completely cleaned this area? We don't know.

You also look at the sticks. The State had said, particularly the stick that was used to push some of the clothing down in the water. Part of that stick was up above the water. And the testimony was, yes when things are in water, it's hard to get prints off of 'em, but if objects, you know, it's possible to get fingerprints off objects that aren't in water. When the police went to the crime scene and found that particular stick that was wrapped around the clothing, what do they do with that stick? They left it at the crime scene. And it wasn't until, not one, but two months later, that Detective Ridge went back out there and found that stick and I think found another one.

I submit to you, has there been any proof, either this stick or this other stick over here, the bigger one, is there any proof that this is a murder weapon? Was there any blood found on this? Any hairs found on this? Any tissues? No. That is pure speculation that that's a murder weapon. What else did Dr. Peretti say? He didn't say only a stick like this could cause those injuries. Perhaps a baseball bat, perhaps a two by four, perhaps other types of objects could cause those injuries.

Another key point to this case was the tunnel vision: Damien Echols tunnel vision. The State has made a big deal about my client's beliefs. In most criminal cases you think of the Fifth Amendment and the Sixth Amendment -- right to criminal trials, right to public trials, right to jury trials. But in this case, we also have the First Amendment, freedom of religion. The State has attempted to say that some of these items of Damien Echols' are some kind of motivation for this killing.

We have these writings here. When were these writings written? At least two -- two! -- years before the murders. Is there anything in here tending to specifically say, linking my client with any kind of murder? Is there any kind of premeditation in here? No. Is there anything in here linking -- that these -- the writings in here -- um -- that any evidence that my client caused the murders? No. My client is a teenager, and we certainly didn't hide that fact from you. And the fact that my client did some writings, take these back, go back and read them, go read all these. But this, in and of itself, is no

evidence of murder and even if you add in all the other things, quote "trappings of occultism," according to Dr. Griffis, that has nothing to do with this case whatsoever. And besides, this even has quotes from Shakespeare. In addition, that was two years before.

Ahhh, let's get closer to the crime! Let's get within a year. We have, according to Dr. Griffis, "The Book of Shadows." Go back and look at this. Is there anything in here that's evidence of murder? No. Is there anything in here that's evidence of premeditation? Any of these writings were at least a year prior to the murders. surely the State is not implying well, Damien Echols wrote these items and had been planning these murders for over a year. Go back, take a look at every one of these. Take a look at every one of these, there's nothing in this book -- yeah, maybe that is a pentagram -- but there's nothing, in and of itself, this book that has any relevance in this case. This isn't any kind of motivation for murder, this isn't any kind of intent, or premeditation, and even add these two together, it still comes up with nothing.

Ahhh, but we have the pictures. We have this weird kind of picture right here, State's Exhibit 112. Is this any kind of motivation for murder? No. Is this any kind of trappings of occultism? It looks like a weird picture, but this doesn't prove anything in this case. And even adding them together. And then we have the picture right here from the skating magazine. Yeah, it's kind of a weird strange looking picture, but so what? It's still all right in America to have weird things in your room, and it doesn't mean you're guilty of murder and it doesn't give any kind of motivation. We didn't have to explain away any of this stuff. Damien got on the stand and said "Yeah, it's my picture. Yeah, that's my writing." The whole part of a teenager, when you're growing up, in the teen years, is questioning things. Questioning your religious beliefs. Questioning your parental values. But just because you do that is not any kind of evidence of murder.

We had the testimony from Bryn Ridge about questioning Damien Echols. Yes, we did make a big deal about the questioning of Damien Echols. Police talked to him on one occasion for fifteen, twenty minutes. Then they had him up there for two hours on May the 9th. Then they had him up there for eight hours. Eight hours on May the 10th, trying to get a confession out of him and they didn't do that. There's a dispute as to what was said during that conversation, as to parts of it. If the West Memphis Police Department would have wanted to have accurate information about that conversation, they could have spent two dollars and plugged in that tape and recorded the conversation, and they would have resolved the doubts that you have in your mind right now about what took place. Now did Damien get up on the stand and deny he had a conversation with Ridge? No. Ridge asked him about religious beliefs, Damien told him. Ridge asked him "How do you think the murders occurred?" What did Damien say? Mutilation, probably drowned, some were cut, one more than another. And how does he get that specialized information? Rumors all over West

Memphis. It was even in the newspaper, it was all on TV. There's certainly nothing special about the statements that Damien told Ridge.

Did -- the other thing -- in interrogation techniques sometimes the police will write up a report and get somebody to sign it, to say yes, this is basically what I told you. They didn't even do that in this case. The police sat up here and grilled Damien for eight hours and then have come in and said, tried to tell you exactly what he said -- in quotations -- but if they would have wanted to do it right, they could have taped it.

Ah, but Damien -- according to their testimony -- Damien wasn't a suspect until he started talking to, about his Wiccan beliefs with Inspector, with Ridge. All right. After Damien tells them that, then if you want to get accurate information you plug in that tape recorder. Ridge didn't do that for the rest of his interview, Durham didn't do that for the rest of his interview, and neither did any other officers that talked to him that day. We even had Gary Gitchell testify he talked to Damien, the last person later on on May the tenth, we don't even have any notes about what he was saying. I wonder if during that part of the conversation, Damien continued to deny the murders.

They made a big deal about Damien stating to Durham "I'll tell you everything I know, if you let me talk to my mom." Did he talk to his mom? Did he do that? Sure. He didn't know anything. He continued to deny the murders. But that certainly isn't any kind of admission of guilt.

In addition, looking at the testimony, we have, the main statements that the State has attempted to introduce has been the, we call the softball girls, and you heard Ms. VanVickle and Ms. Medford testify. Let's look back at the circumstances of what they heard in that conversation.

Both of them testified they were about twenty foot away, didn't see each other, was Damien talking to them? No. Damien was talking, one of them said, to five or six people, the other girl said a bunch of people. All they heard was the middle part of the conversation. They admitted, we didn't hear what they talked about initially, they said we didn't hear what they talked about at the latter part, we just heard the part about Damien Echols saying that he killed two, uh three, of the boys and was gonna go kill two more. I submit to you that that conversation was taken out of context.

We certainly don't have to prove anything about that conversation. If the State believed that conversation, they could have had the five or six other people that were listening to that conversation, they didn't put those witnesses on. We don't have to prove anything. The State's the one that had that burden, not the defense. And even, if you listen to the, as part of that conversation, we don't know what the context was, was Damien talking about the murders? Perhaps he was. If you'd been up at the police station and they grilled you for twelve, ten hours, and people were asking you about that, sure.

The girls also said "Well, Damien was kind of weird. We, you know, heard some rumors about Damien." Did the girls believe what they heard, what they say they heard, that day? Ms. Medford

says "Ah, I went and told my mom right away." And what did her mother say? "She didn't tell me 'til, 'til it was past dark and we got in the car to go home." Her daughter was so scared and so concerned about what she heard from Damien Echols, that she decided to go ahead and finish out the softball game and watch another two other games, and not 'til they left to mention it to mom. Okay. At that point, did mom believe it? Did even the girl believe it? Did they go tell the police right away? No. Did they tell them right when the -- they waited until a week or so after Damien Echols was arrested, before they decide, ah, now we'll tell the police.

That's the only statements they have. The State is gonna, has put a big emphasis, Damien confessed. I submit to you that this wasn't any kind of admission at all whatsoever. And the State certainly doesn't have quote "the words of Damien Echols" to convict him. The circumstances around that conversation, if it did in fact take place, there's certainly reasonable doubt.

We also emphasized police ineptitude during this investigation. We brought up the part about photo line-ups. Just think for a minute, if you're a suspect in a case, and the police show your picture to some other people, possible witnesses. And if the witnesses identify your picture, then that's important and we'll write a report up. But if they don't identify your picture, then we just don't have to write a report, we're not gonna write a report about it. Well I submit to you, it is very important if your picture's shown to somebody and they don't pick you out, there ought to be a report about that. And the fact that ah, sometimes we show pictures and do reports and other times there's no reports, that fits in with the police ineptitude and that's also part of the reasonable doubt.

We also had the, there's another part of the testimony about police ineptitude, we asked about surveillance, did they do surveillance on a certain person's home. Yes, we did some surveillance, but we never bothered to transcribe it. We never bothered -- you, you just can't hear anything about that. All right, so they go, the police go to the point about doing some kind of elaborate surveillance, about taping, about having something, a transmitter in Gitchell's office, a receiver, whatever. All right, just tell me the date you put it in. "We don't know." Tell me when did you take it out. "We don't know." Well tell me the dates of the conversations. "We don't know." All right, just give me the transcript. Certainly, if you went to the trouble of doing surveillance... Ahhh, but what's their likely response? Maybe there's nothing on this. So if they do surveillance and my client is there, and my client doesn't say anything implicating, the police, they just don't want that. Another part of police ineptitude. And it's certainly possible -- we asked questions about it -- there are outfits that could do voice translations and they can clear up tapes if they really wanted it. If they really wanted the right information. But no. Damien Echols tunnel vision. Damien Echols tunnel vision. If something fit in with their theory that Damien was involved, they investigated that. If it didn't, they chucked it aside, they threw it away, just like that Bojangles blood.

In addition, the fiber evidence. Ahh, this is the big scientific evidence in this case. Because there's no DNA evidence, there's no blood evidence linking my client whatsoever. But the fibers. We asked Lisa Sakevicius about the fibers, she testified microscopically similar. Of course John Kilbourn used the term consistent, which is probably the same term. I submit to you that microscopically similar is built in reasonable doubt. She didn't say it's a match, she didn't say you could take two different fibers, put them together and say yes, positively these are together. There are similarities. And you look at them in a microscope and there's similarities. And I also asked her "What about this disclaimer you put on every one of your reports?" Yep, the FBI tells us that we need to put on there some language to the effect of fibers do not contain enough individualistic characteristics to the exclusion of others. And that's the reason I also showed her that book that I had that said it's very important when testifying to explain not only the benefits, but also the limits of fiber comparisons.

Now let's look at the fibers themselves. There were two sets related to my client. One, was the cotton/poly fibers that were found on, um, Mr., uh, um, Moore clothing. What was the source of those, based upon the testimony? We don't know. We don't know for sure what the source was. They were microscopically similar to a t-shirt, a blue and green Garanimals t-shirt, size six that doesn't fit my client.

Were there any other fibers? Ahh, the red cotton fibers. Of course, cotton is very common, and Lisa testified that back on June the 6th we found a red t-shirt in Damien's house and those, that red t-shirt had fibers that matched fibers found on the scene. Okay. But is it important in fiber evidence to exclude the possibility of other fibers? They waited until December 20th to go back to the homes of the vic -- two of the homes, not even all the homes, to only two of the homes of the victims -- found a red t-shirt in the former home of Michael Moore and lo and behold, that red cotton t-shirt had the same kind of red cotton t-shirt, microscopically similar and they're also microscopically similar to the ones found at the scene. I submit to you fiber evidence has some value, but there's built in reasonable doubt.

The other thing, how are fibers transferred? The testimony was there's primary transference, a fiber from one clothing on another, then secondary, goes off one clothing onto something else, onto a third thing. How does that actually occur in real life? You're able to use your common sense based on the reasonable doubt instructions. I submit to you that it's certainly possible for fibers to be transferred when clothes are being washed. Even if you look in your pocket, a lot of times you may find fibers, different color fibers. Did that fiber come from this particular clothing? No. It probably came from something that was washed or dried together. And that certainly is a possibility of how fibers could be transferred. So I submit to you that the fiber evidence, is certainly, there's built in reasonable doubt with that fiber evidence.

We also, at some point, got to the issue of motive. And that's where the State introduced the testimony of Dr. Dale Griffis. And the State, his conclusion was, this crime had trappings of occultism. And I asked him, just tell me what factors you had -- obviously, these things certainly stuff that was written a year or two before the murders, "Ah, that's occult related things," you know, "They, when they're doing their satanic things use stuff like this." What about May the 5th? To me it seems like May the 5th is more important than something that took place a year or two years before.

If you look at that evidence, the three big factors, the date, the moon and the slicked off are the defendant Those were the three primary things he looked at. The date. "Yes, on May the 1st it's a satanic date and so is April the 30th. One is Beltane, one is Walpurgisnacht." Alright, but the murders took place on May the 5th. Ah, if they take place within a week, it's a satanic -- it could be perhaps a satanic killing. Well, I submit to you that if it takes place a week before or a week after, according to Dr. Griffis it could be satanic. So if you got thirteen possible dates, a week on either side, twenty-six weeks, half the weeks of the year, it could be a satanic killing according to Dr. Griffis?

Ah, well let's look at some other factors. The moon. Ah, now that's real important. I asked him, he said "Well the fact that there's a full moon, that is a factor." Okay, well I asked him "Well, then, if it was no moon does that mean it's not satanic?" "Well, no still could be, but less likely." I asked him "Well, what if it's a half-moon, is that fifty percent of, of? Is it occult related or not occult related?" I submit to you that the fact of the dates and the moon have absolutely nothing to do with this case whatsoever. Obviously, if a crime takes place, you're gonna either have a moon or not have a moon, and you're, it's gonna be on a date, but just to sit down and use those, pull those figures out of the air and say "Ah-ha, this now has the trappings of occultism" is incorrect.

He also, I asked him about the slicked up areTHE DEFENDANT: Ah, so the fact there's a slicked up area, that means it's satanic. What I thought based upon some of his testimony is, you know, if it's a satanic or an occult or cult related killing, they leave some kind of a mark. They want people to know. So according to his reasoning, there's nothing there, we can't explain it, so it must be occult related.

Of course the State has inferred that, from the one testimony of the one, of Michael Carson that Jason Baldwin had made a statement that he'd sucked the blood. Is the State contending that even if that is true, that's where all the blood went? Well what about all the injuries, there was lots of injuries to the boys. Besides the injury to the penis on Chris Byers, there was all those other injuries as well. Where did all that blood go?

I also asked him "Could it be a sex crime?" "Yes." I asked him, you know, he testified about the way the boys were tied. It's also possible that that could be easy access on a sex crime, which has absolutely nothing to do with any of this occult related or the trappings of occultism. I also asked and he said it could be a serial killer.

But I submit to you from the evidence that's been put forth, although the State doesn't have to prove motive, I submit to you that they haven't proven motive. You know, we don't have to, we did not have to come in here and say it was not an occult related killing. But what did we do? We put Robert Hicks up here to try and explain this phenomenon. And Hicks got up here and testified about there are cult cops, who go around spreading satanic panic, and part of their theory is no other evidence, so it must be occult related. I also asked him -- just -- what kind of data do you have? Like imperial studies, empirical studies, or. And he said that there wasn't any empirical studies about any of these cult related type killings. But even if there was, there's no evidence that this killing was an occult related.

The State produced the Hollingsworths. That's their big eyewitness. That Damien Echols was seen around 9:30, ten o'clock, walking near the Blue Beacon near Love's Truck Stop. We had Narlene and Anthony. Of course, Anthony testified they were dirty. Didn't say anything about any blood at all on either one of them. Narlene testified there were eight people in the car, she thought about stopping to pick up Damien and Domini, and then they were going to pick up Dixie. So there'd be eleven people in a Ford Escort. But besides just that, she was very sure, she was just as sure as it was Damien as just as sure it was Jason -- I mean as it was, uh, Domini. And her testimony was holes in the jeans, flowery pants. She also testified yes, LG Hollingsworth, her nephew, was a suspect in this case. I submit to you that goes toward possibly her bias. But the key testimony of Narlene was, what else did she say? Between 5:00 and 5:10, she saw the, uh, she also saw the kids earlier in the day and then she found out they were missing. She found out at five o'clock they were missing, and that was before the parents knew anything about the kids being missing.

We also did have the testimony from Dr. Peretti. The State has alleged that because there's different types of weapons, that maybe perhaps multiple people were involved. There hasn't been any testimony whatsoever as to the number of people that committed this crime. You know, that is not something we have to disprove. The State has that burden of proof. Just because they pick up a stick, just because they -- or two sticks -- and maybe a particular knife and there's three different knives and go ahead and say maybe three people did it, there's no evidence whatsoever to the number of people that committed this crime. It is certainly possible one person, and only one person, could have done this. It's also possible any number of individuals could have done it.

We had Dr. Peretti testify about the injuries on the bodies and he also noticed there were some injuries on the buttocks of Chris Byers. We have the testimony from Mark Byers that earlier in the day he had beat him, hit him three or four times with a belt. We also had the testimony that there was a belt buckle injury on one of the boys. I submit to you that is reasonable doubt. Now there was the testimony about the injury to the ears, that could be from dragging the boys, that could have been when they were thrown in the water, that could be some type of sexual act that was performed on the

boys, there's no conclusive proof whatsoever as far as that. But particularly, there's no testimony as to actually where these boys were killed.

Then we have the area of weapons. The State has come in and tried to allude, this particular, the Lakeshore knife, is the murder weapon. Well, Dr. Peretti said a knife of this type, some of the injuries were consistent with a knife of this type. He never did say this particular knife caused those injuries. Where was this knife found? This knife was found, according to testimony, in the Lakeshore area in the lake. But what part of the lake did they look at? Did they look at the whole lake? Were they trying to check for all weapons that could've been out in that lake? Because there was some testimony that other suspects lived out on the lake. No, they only looked at certain areas. They only looked at two areas, very convenient to the area where Jason Baldwin lived.

But in addition, was there any testimony as to who threw this particular knife in the lake? No. Was there any testimony that this knife was thrown in after May the 5th? No. Again, we don't have to prove anything about this knife. We don't have to disprove anything about this knife. The State has the burden of proof, and even with this knife, they haven't proved that this knife was the murder weapon. Because if you also look again at the circumstantial evidence instructions, "A fact is established by circumstantial evidence if it's reasonably inferred from other facts proved in the case. Circumstantial evidence must be consistent with the guilt of the defendant and inconsistent with any other reasonable conclusion." There's no testimony whatsoever who threw this knife, or how, or if this knife has anything to do with the case.

There was testimony from Jim Parker that yes, we sold a knife similar to this. Any testimony that Damien Echols ever had this particular knife? There was some testimony that Damien had a knife similar to this, of course that came from Deanna Holcomb, an ex-girlfriend, that he had a knife a couple years ago. Damien got up on the stand and admitted "Yes, I had some knives. I used to have a knife collection." The fact that he had a knife collection is not evidence of murder.

In addition, we're not required to prove any defense whatsoever. But when we put, we not only put Damien Echols up on the stand and he was there for the after -- one afternoon and also part of the next morning. And Mr. Davis had a chance to ask any question that he wanted to, and you had the chance to observe the demeanor of Damien Echols on that witness stand, and consider that in your deliberations. Consider his answers.

In addition, we put forth evidence as to what Damien Echols was doing, thought he was doing, on May the 5th. I submit to you that the State is making some kind of alleging that we made up our alibi defense. The key thing to look at is if I ask you what you were doing back on May the 5th, you may not remember. If I pick out another day, what were you doing back on November 13th? I don't really remember. Now some dates stick out in your mind. You may remember when Kennedy was shot,

when Elvis died, the Challenger explosion, the man on the moon. For certain people, certain dates really stick out in your mind. But I submit to you that once Damien was accused of a murder on May the 5th, the family went back and double-checked well, what all was I doing that day? The whole nature of evidence like this generally it's family and friends that know what you're doing. Generally you don't have a bunch of complete strangers to come in and say what you're doing on a specific day. We put forth the testimony, we put forth the Sanders, that said it, May the 5th was the date that they were there. We had the two Sanders daughters. We had Randy Sanders, who wasn't sure of the date, but he knew that they went to Splash Casino that day. He saw Gail Sharp. Gail Sharp admitted seeing the Sanders. Gail Sharp remembers May the 5th, because that's the day she won $10,000. And so I submit to you that we did put testimony for this of what Damien was doing that day.

Now, the interest -- you may be wondering what difference does that make. Well, quite frankly, when did the murders take place? We don't know. There's no evidence they took place between 6:00 and 8:00. If they did take place during 6:00 and 8:00, Damien's -- there was evidence that Damien was over at the Sanders. Perhaps they took place after, um, at some, uh, Dr. Peretti testified, between 1:00AM and 6:00, and 5:00AM. If that's true, even if Narlene did see Damien about 9:30 walking out in that area, that makes absolute -- there's no relevance to that whatsoever. We don't know from the evidence put forth and it's not Damien Echols' fault that we don't know the time of death. Damien was not the one out at, at when the bodies were found, Damien's not the one that didn't get the right information to Dr. Peretti. And you'd think if you're trying to solve a murder, time of death is a very important day.

The State asked the question of Damien about "Well, it appears that the story changes to fit the facts, when they're damaging." Well, I submit to you that the State is the one that doesn't know the facts. The State cannot come in here and accuse Damien Echols of changing the story to fit the facts, if they don't even know what the facts are. Because it's not our job to prove what happened May the 5th, it's the State's job and they haven't done it.

If you look at all the evidence in this case, the State has tried to allege this is a satanic killing or had the trappings of occultism. In Kenneth Hicks' book it states, "The satanic model of criminal behavior has no observable basis. The notion of a continuative [?] behavior rests upon no empirical foundation." Is Mr. Hicks the only one with that opinion? No. I asked him about the last quote in his book, and Ken Lanning, behavioral scientist from the FBI: "Bizarre crime and evil can occur without organized satanic activity. The law enforcement perspective requires we distinguish between what we know and what we don't know."

In the case here, I submit, there's a lot of things we don't know. And for the State to come before you in this courtroom and say "We don't know the time of death. We don't know what happened. We don't

know where the boys were killed. We don't know if they were killed out there because there's no blood out there." And turn around and say "Because of all that, convict Damien Echols because he's a weird teenager." They haven't met their burden of proof.

When you go back in the jury room, ask for the exhibits, look at all the exhibits, study your notes, and I submit to you that once you make your deliberations, you'll come to the conclusion the State has not proven beyond a reasonable doubt that Damien Echols killed anybody on May the 5th.

Thank you.

Closing Argument of Brent Davis

DAVIS: May it please the court, fellow counsel, ladies and gentlemen of the jury. I'm gonna be serious and I'm gonna be brief. But let me warn you first, I told Mr. Fogleman last night--I said, when I stand up they're gonna think they're gonna have to hear the other three attorneys that hadn't talked yet and that's not the case. I'm the last guy who's gonna talk. Because it's the State's burden to prove this beyond a reasonable doubt. And therefore we get the final rebuttal closing argument. There's been a lot of talk about what this case is about. And I'm not here to tug, and this is not my intention--to tug at your heart strings, but I want you to look at those three boys that were murdered because there's been a lot of attention, and the defense attorneys focused on sympathizing or empathizing with their clients.

What I think is a key in this case--is not just who killed these boys although that's the real issue you all have to decide, who's involved in the murder--are these defendants involved. But I think also important is what type of person was involved in these murders that could turn these three innocent-looking little eight-year-olds into the mutilated bodies that we've seen in those photographs. Because what type of person could do that is at the very center of this case. Because the defense has thrown out ideas, such as could have been sexually motivated. Could have been a transient. It could have been a serial killer. But like Mr. Fogleman told you and I think when you look at the evidence and familiarize yourself, and I ask - really do beg of you to go back there and take your time and look through this, and see through it, and rationalize it. Because when you look at this evidence you're going to see that it would be an absolute impossibility - take that back - it would be within the realm of possibility, but that's not within reasonable doubt. For these kids to have been removed from those woods and killed somewhere else and brought back. It would make absolutely no sense whatsoever. And it would have been an ordeal and a task for a group of people to perform, and--because the route you have out across that pipe, through Blue Beacon, or out across that open field--where you would have had to have carried the bodies for quarter of a mile. And you're talking about - the defense want

you to believe that it could have happened somewhere else because there's no blood found. And this may be a bad analogy, but remember that it was thirty days between the time these murders occurred and the time that these defendants were arrested and that brings--you remember Mr. Ford mentioning--I may skip around here some--but Mr. Ford mentioned, remember the letter of Gitchell on May twenty-sixth where he said we're blindfolded. Well you remember the testimony of Officer Ridge that they talked with Jessie Misskelley on June third of 1993, and on that night the arrest were made.

And you remember the words of this defendant, Jason Baldwin, and this is through Michael Carson that I put to you he's a credible witness. And they can say he's committed crimes, but Jason Baldwin wasn't gonna be with anybody out there that wasn't in some trouble--I mean that's a fact of life when you're in jail. But, his credibility--he had no reason to lie, he had no motive to lie and he got up here and he told you what Jason said. And it wasn't just the horrendous things that Jason had described that he did, which just happened to be consistent with the physical evidence in this case. It's what Jason said about Jessie Misskelley. Remember that? If Jessie Misskelley hadn't screwed up I wouldn't be out here right now. And when I get out of here, I'm gonna get off on this, when I get out of here we're gonna have a big party.

Now, Mr. Ford can attribute a great deal of skill and cunning and ability to Michael Carson. That Michael Carson is capable of fabricating this story, putting all these parts in that fit and then getting up here telling us strictly for the purpose of becoming a big shot. And can withstand Mr. Ford, and I'd say that he probably got cross-examined as hard as anybody that Mr. Ford tried. Mr. Ford's voice got higher with him than it did with anybody. Cause he was excited. And he tried to hammer him. He tried to shake him. He got up up there and he went after him. And he didn't shake him an ounce. And even the person in the jail--and I think Michael Carson told you, he was reluctant to talk about what somebody else had said. And he wouldn't normally do it. But when he saw the parents of the victims on TV--and I believe it was the night before the trial in Corning started, when he saw that on TV he picked up the telephone and he called me. And he told me what he knew and he testified to it from the witness stand, and I put to you if he was lying--if he was telling you something that wasn't true, they would have nailed him on some facts about what was going on out at the jail, who he was with, things of that nature. Who was in the jail at the same time, where they were when it was said. You know, if he's gonna fabricate something he could have fabricated something a whole lot more grandiose than that. I mean he could have come up with something that would have nailed--I mean heck, why not go ahead and get the other defendant while you're at it if you're gonna be a big shot. But he told what was accurate with the facts and when you look at judging of credibility you look at reasons and motives for fabrications, and he didn't have it. He didn't have any reason to benefit up here. If he was gonna do it, he could have done it back a long time ago and maybe could have benefited

himself--tried to gain something out of it, but his day in court is over with. His situation is done. There's nothing else to be gained.

They want you to believe it happened somewhere else. Because, that makes it less likely that it was someone who knew the area and was familiar with the areTHE DEFENDANT: This area out there, keep in mind--it's the perfect--it's the perfect area to commit this crime. Number one, it has children that play all in this vicinity. Number two, this area of the ditch, if you'll recall from the testimony, that's a big cut bank there--what I call a cut bank, where the ditch has washed it out. And you can stand in the ditch and the bank, the top of the bank is like right here. So if you're down in the bottom of that ditch on those plateaus and flat places when the murders occurred you not only have the benefit of the traffic and sound of the interstate highway, and the seclusion of the woods around you--you're basically down in, kindly a little crater or cavern when you're committing the offense. Now they make a big deal about no blood found there. Well, like I said, there was thirty days elapse.

And all that had to have been done--and of course this was--Mr. Ford, when he cross-examined Dr. Peretti, gave him "X,Y, and Z" examples. But all that had to be done is for something to have been laid on the ground when the children were placed there. Whether it's a piece of plastic, a piece of Visqueen, and it's folded up and carried with them when they leave the woods that night. And we don't get them for thirty more days. So, I mean, they can leave the stuff in the drainage ditch on the way home. A big coat spread on the ground could have served the same purpose.

It could have been anything that covered the ground or they could have been on the very edge of the water, where their legs were in the water and where they bled into the water. No we don't believe it occurred after dark. Because, primarily--think of it, now they had...

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...if you think of it logically. If they go--the kids are in the woods playing, the last they're seen is going into the woods, when they're found dead less than twenty-four hours later they're in the woods--logic would tell you that it occurred there.

Also they had massive head injuries. The logical scenario was, if--to catch and corral three eight-year-olds, and--I think it would have been nearly like catching a cubby of quail, there had to be more than one person doing it. To inflict injuries from multiple weapons, there had to be more than one person doing it. I mean you could, one person could use three different weapons but logic tells you if you got different type knots tied on the children and extremely different from one side to the next. If you got three different weapons causing the injuries, if you got situations where the injuries are dissimilar--three weapons, three types of knots--those type differences, you realize that it had to be more than one person. If there's one person how do they corral the kids, how do they tie the kids up. The head injuries had to be first. The head injuries - Mr. Ford says they can't be because there's no

blood. But the type head injuries that you see here, a lot of the blunt trauma and I think each if the kids sustained some blunt trauma to their head, now there are some injuries that are in the nature of cuts and open wounds. But the blunt trauma type injuries would debilitate the children, yet not cause this massive bleeding. But whether--if they're alive they aren't debilitated first then how in the world could you get them out of the woods. I mean even if they're gagged, it's daylight because they're in the woods around six-thirty--it's still daylight and you're having to take them out with one side an interstate highway and the other side a three-hundred to five-hundred unit apartment complex or a truck wash. I mean how do you get the kids out? And if you do why in the world do you come back and dump them there? I mean, if you want them to be found you could put them in a lot better places and if you didn't want them be found, why in the world would you want to bring them back to where they were abducted in the first place? I mean, it literally doesn't make sense.

This location is an absolute prime spot to abduct children, to ambush children, to commit a murder within what is really a fairly residential and busy areTHE DEFENDANT: It's absolutely a prime location. And the fact that that's important is really the main thing--is whoever did this, this wasn't some stranger that popped in off the interstate. Whoever did this, and left those children there, who pushed the clothes down in the mud, was someone that was familiar with this area and familiar with what went on. Familiar with the goings on with these kids, and to know to commit this crime here, to know that even though it doesn't appear that secluded it's a heck of a place to pull this off. And I put to you, that's consistent with our defendants.

Mr. Ford talks about - he said, there's nothing to connect, you know--they don't have anything to connect my client. And he told you and this was another one of his word games that he likes to play. He said all our witnesses said this couldn't be the murder weapon, this wasn't--incorrect, this wasn't the murder weapon. Ok. Is that what our witnesses said? Think about it. Did our witnesses say this wasn't the murder weapon? What Dr. Peretti said was that the injuries are consistent with a serrated edge of this type. And I ask you like Mr. Fogleman did, please go back and compare and look at this.

The other thing to keep in mind is-- and John didn't mention this, but remember this knife has two cutting surfaces. It's got one here and it's got this serrated portion back here. Now, the ripping type injuries you see on the children are on the inside of the thighs and the back of the thighs and the inside of the buttocks. Ok. When this surface is being used to remove the genitals and the knife is worked in and they're trying to remove the genitals this back surface is what's going to be coming in contact with the inside of the thigh and the back of the buttocks. The knife that you were shown over here, the Byers knife, it has but one cutting surface. If they're using that knife to remove the genitals, then the back of that knife has no cutting surface at all and wouldn't leave any marks on the inside of the leg or the back of the leg. And I ask you to go back there and look at this and think, when you look

at those photographs and where those injuries are--think of how this knife is used, and I know it's not pleasant. But think of it and then look at where those marks are and how they match up with this particular size of blade.

Of course Mr. Ford says that's not evidence. Because he doesn't wanna believe it. Because it incriminates his client. He would rather talk about the mud in the bottom of the sacks. He would rather claim - and I don't even - every case they claim police ineptitude. I mean, that's - as a prosecutor I nearly write that down as something that the defense attorneys are gonna say. They always get up here, and if they don't have anything else to talk about they say, well the police bungled it up, because if they had done a better job, like they do on TV, we'd have all the answers. And so they claim that the police messed up. Well this is nothing unusual except I've never heard them allege that police staged photographs. And accusations like that - why they've reach the point that they're even accusing the police of actually manufacturing things - I don't know if it's reached that point in desperation or what. But what I consider that - not only inaccurate, but totally inappropriate based on the evidence. You look at the photographs, I mean Mike Allen's face when he said that about the watch--you believe that Mike Allen really had more than one watch--that he came out there at a later date.

One thing that he also mentioned - and he said - the fiber. Not a single witness said that that fiber came from that robe. That's true. And you understand - I think now that you heard three experts in fiber testify, it's not like a fingerprint, you can't say that that fiber came from that particular garment. However, what they can say is that that fiber is microscopically similar in all characteristics to the known fibers we removed from that particular garment. Mr. Ford tries to minimize that and mislead you by saying, 'they can't say it came from there.' No, we can't. We can say it's similar in all respects and the only - the only garment that was found in the searches of any of these places that had a fiber that matched, and you've seen those graphs how well it matches, you know, they run perfectly parallel contrary to what Mr. Linch, the guy who can't flatten one, says. But, those fibers match that garment. And it's one fiber. But it's microscopically similar - similar in all respects to what came off that robe. And that robe came from Jason Baldwin's house.

They make a big deal about there's no evidence at the scene. But think about it a minute. It's not that there's no evidence connection their client because what evidence was found out there connects to one of these two, for the most part. What they want you to do is say there's no evidence. But there's no evidence out there that points to anybody else. There's no evidence that points the finger - if someone else did it, and that's their argument, you know, there's just not a whole lot of evidence out there that connects to our clients. But if someone else had committed the crime then you'd see fibers out there that didn't match, didn't come back to one of these people. You'd see evidence out there that didn't matched either one of these. You'd see evidence that didn't connect. And you don't have that.

There's just a scarcity of evidence. Somebody did a good job of cleaning it up. The same person who made sure they punched the clothes down in the mud so they wouldn't float up is the same person that cleaned that area, and they did a dang. good job of it, and they removed most of the evidence. But there's a few things they didn't get

They talk, both attorneys talk about Bojangles. And that's another side of police ineptitude. But think about it, I mean, we got a guy who is literally bleeding like a stuck hog when he comes in Bojangles. I mean, there is blood everywhere. It's in the entrance, it's in the floor, it's on the - it completely soaked the toilet paper roll. Ok. The guy is unsteady, he seems to be kindly out of it. And this is the same guy they're trying to point the finger at and say, that's reasonable doubt, that could be the killer. Mr. Price didn't even have - he couldn't go that far, he said, well it's possible. It's possible. Read that instruction on reasonable doubt. It's possible, but can you believe a crime scene that were so meticulously - I say to you that's the crime scene - that was so meticulously devoid of any signs of struggle or altercation. Even though the bodies, and remember those bodies that were dumped there when they were recovered bled again when they were put up on the bank. And we know they were taken there and dumped but whoever did it was so careful that there's not any blood in the area, you think that's any connection with the guy who's unsteady on his feet and he comes walking in Bojangles about eight-thirty that night. He's got blood all over the walls and got blood all over the toilet paper in the women's bathroom. I mean, come on. You know, use your head and logic. That is a red herring they're throwing out to try to get you off the track.

Mr. Ford talked about--and I'm not sure what set, other than the fact that, I don't know if you find that the children were sexually abused or not. But he's wrong in one thing, because there was testimony that there was a DNA source consistent with semen found on the pants of one of the children. And Mr. Ford indicated that there was no evidence of that. He talks about no mosquito bites, and I think it is important. Because I think the kids were hit in the head and I think the evidence reflects they were hit in the head, they were tied up, and they were submerged in water before it got dark. In that time frame between, the time they disappeared and the searchers started getting out there and it would have probably scared people of at that point because they're getting close enough to the area where the bodies were ditched. That, between that time period, the reason you don't have mosquito bites on the bodies is because soon after those children went into the woods around six-thirty, not too long after that time period--they're playing in there and they're abducted, they're tied, they're beaten in the head, the terrible cutting injuries are done to them, and they're dumped in the water. And that's why you don't find the mosquito bites, and that's why I'm not concerned about whether you can do this after dark, because I don't think the evidence is consistent with it having been done after dark. I don't

think it's consistent with them having been removed out of there. And I think that's a reasonable conclusion you can draw from the evidence.

Mr. Ford is real concerned about the question as to time of death. And - I don't know what got into Dr. Peretti. I swear, I do not have any idea of what the man - what caused him to come up with that time range. But you heard, and the textbooks, you heard Dr. Jennings - even Dr. Peretti leading up to it - like Dr. Jennings said, you can't give an opinion, you can't give an opinion, you can't give an opinion - ok Mr. Ford I guess I'll throw this time range out. And it's just--it is absolutely as inaccurate and doesn't have anything to do - based on lividity alone - that time range has no more - that is no more basis for an estimate as to time of death, it's like he said it's putting the roof on without the foundation. The time of death, the only accurate range is from the last time they were seen until the bodies were discovered. And this isn't a TV show, that's as close with these factors as we can get. And they said well - you know they didn't get all the information we need, but had they gotten a rectal temperature they would have destroyed evidence, possibly of sexual assault. Had they removed the bindings to determine the degree of rigor, they would have possibly destroyed evidence that had to do with those bindings, now remember there's a piece of tissue that was found in one. So, I mean, they had--their decision to do what they did was based on a rational, logical alternative of, we're gonna give up some things to obtain others, and that's what they did.

Mr. Ford talked about guilt by association in regard to Jason. And, remember Dr. Griffis, and I'm kindly--this satanic or occult motive thing is kind of a foreign concept to me. But when you've got people that are doing what was done to these three little boys, I mean--you've got, the normal motives for human conduct don't apply. There's something strange going on that causes people to do this. I mean, you've got some weird people. And when you got a set of beliefs--when you got people out there that are following a particular set of beliefs that include human sacrifice and it's evidenced in the books. I mean, he can say I don't--you know--I don't do it as a custom but I mean this guy's more--his mother said it was a phase he went through, I think he said he dabbled in it. Well you can judge him from the witness stand. The guy is as cool as a cucumber. He is nearly emotionless, and what he has done in terms of the satanic stuff is a whole lot more than just dabbling or looking into it for purposes of an intellectual exercise. I mean, the guy's handwritten incantations regarding sacrifice, letting the blood flow, all that sort of thing. I mean, that is indication of someone that's got some rather unusual belief system.

Dr. Griffis mentioned, he said, you often times see that you've got one kind of charismatic guy that's heading the group. And he said this is often times what you've got with these offshoots that aren't formalized cults or satanic groups. But they're just kindly offshoot groups that are kindly self-styled occultists, and you usually have one guy that's kind of like the charismatic leader and then you have

some followers. Well contrary to what Mr. Echols told you from the stand, I don't think he's the introvert that he says. You see at the ballpark, as Mr. Fogleman pointed out, he has the crowd of people around him. They're younger people, sixteen-year-olds like Jason Baldwin who's his best friend and the testimony was they spent three to four hours together nearly every day, that he would walk across town nearly every day to go out to the trailer park to be with his best friend, Jason. And, you see that--you know--usually when you see people that associate that frequently, there's some sort of tie. Play basketball together, they're in athletics together, they go to school together--they have some common interest that binds them so that they spend that much time together. And I put to you, that the leader in this case is Damien Echols. And the follower--one of the followers in this case, is Jason Baldwin. And, it is so, like Mr. Fogleman said, serial killers don't work in packs, psychotics don't run in packs. When you have multiple people involved in a murder like this there's got to be some thread that connects them, that holds those people together so they act together in a focused effort. And I put to you, as bizarre as it may seem to you and as unfamiliar as it may seem, this occult set of beliefs and the beliefs that Damien had and that his best friend, Jason, was exposed to all the time, that those were the set of beliefs that were the motive or the basis for causing this bizarre murder. And Mr. Ford might not like to accept that. He may make fun of Dr. Griffis, but in this case I think the shoe fits. And the other more normal motives for human actions and the actions that we find here, just don't seem to cut it in this case. Because you got something this bizarre, and this unusual. And, like John said, we didn't make this stuff up. We didn't put the writings in the book, all that. That's stuff that was produced by Damien Echols. And if that indicates--and Mr. Price will say each little object doesn't indicate that he's involved, but it indicates more than just a passing interest. If somebody, when their dress changes, their ideas change, their religious beliefs change to that extent and it's that type of religious beliefs, then it's not a foreign idea to think that that has something to do with their motivations, or motivating their actions, and affecting their actions.

When Damien was telling us - remember about the interview? And he's talking about what Officer Ridge asked him. And he said--you know, I asked him--I said Damien, you know--'you told the officer that whoever did it is probably laughing at the police'. 'Yeah I said that'. 'Why you think that?' 'Common sense would tell you that'. And I thought at that time that that's a tad strange--now to me, common sense--but maybe I just--I hadn't thought about it, and then he started reeling off these things like the person--it would have happened out in the woods because they couldn't hear them scream. But the person who did would have really liked to have heard them scream, really enjoy hearing them scream. Why you think that? Well common sense would tell you that. And I thought, well, ok. And so it went through and he reeled off a number of things and he kept saying - just looking real flat, unemotional -common sense would tell you that. And I know when I got home that night it started--

when we're dealing with somebody, whoever committed this crime has to be one warped individual, and the person who talks in terms of--the person who did this would liked to heard them scream, the person who did this wouldn't mind if they got caught. And that is a mind, you know, that is a frame of mind that fits the person who committed this crime. And it fits the guy who was out there at nine-thirty at Night.

And it's kindly funny, you know at one point they wanna believe Narlene but they don't wanna believe Narlene. I mean you can talk them a lot ways, but I don't think Narlene lied to you when she said she saw Damien out there. And once you accept that, and why in the world is Damien and the rest of his group lying to cover him--where he was on the fifth. What difference does it make? Why don't he get up here and level with us? 'Why, heck, I was going down to Love's truck stop on the fifth. Put Domini up here, let her tell you what they were doing. But if Anthony and Narlene are telling you the truth and, you know--you heard her say about getting them in the car but she wasn't gonna have them in the car, she wouldn't let her kids sit on his lap. She know who was out there, I mean--Damien himself admits what a distinctive looking character he is, and you wouldn't drive by and miss with your bright lights on at night if you knew who he was. And she knew who was out there. And if he's out there then he's lying to you. And if he's lying to you--his whole family is lying to you, and the question I got for you is, if they're lying to you about all that, why? Why? Do they got something to hide. I put to you, they do.

Also, remember Damien saying--and I think this is a real, real coincidence, and y'all can play a little detective on your own when you go back here. Remember this book that just comes from the library? See all this stain on the back of it? You all go back there and look a that and kindly tilt it in the light and look and it, and see if that isn't blue wax to you. See if that doesn't look like some blue wax to you. Now you run your fingers on it and it reflects, it got kind of a shiny surface to it. You remember ol Damien telling us that one of those--I mean, whoever was doing this would--probably if it was satanic involved, would probably have some candles out there. Well, we got one of the boys' shirts that had that blue wax on his shirt and--oh, Damien will tell you, well those red marks in his book, you know--they must have been in the library before I got it.

But is this just gonna be another one of those coincidences? You know, Damien's out there at nine-thirty, Damien tells two people who don't know him from Adam--they overhear him say he committed the murder, their mother comes into court and testifies under oath that's what her daughter said. Narlene and Anthony tell you that. And is this just another coincidence that we've got blue candle wax on the shirt of one of the victims. And we've got blue candle wax on this book involving, dealing with the occult.

You go back there and play--play your own little examination with that.I can't--I know y'all are real tired, and I haven't gone over everything I marked in pink, we'd be here til--I frantically wrote down every time I'd hear something I'd think gee I wanna say something about that. I wrote it down on my notepad and I don't think if I talk about it it would make much difference at this point. I know y'all are tired. But when you go back there and think of what was brought up by the defense attorneys, look at what we have to prove, and what our burden of proof is. And look and see if what they're saying really have anything to do with what we have to prove. And our proof beyond a reasonable doubt. Look and see if it really is something that goes to raise a reasonable doubt or is it something that they threw in as a possibility. Because I've heard that word so many times during this trial I'm getting sick of it. Because possibilities don't have any place in this courtroom. If you find reasonable doubt you can act on that. But possibilities and possible doubts don't count. And that ain't good enough.

Mr. Ford asked you during voir dire, he begged with you and said, I want you, when you get on this case, I don't want to make you--it's so serious, I don't you to make a mistake. Well I don't want you all to go back there and make a mistake either. Because while they've told you what the price tag and the liberty and freedom of their clients is one side of the line, well, he said the lives of children are on the other side. And we have presented--well, it's a circumstantial case with circumstantial evidence, and it's good enough for a conviction. That's what that rule and instruction tells you. And reasonable doubt, all that means is every day you make decisions in your life. And you make tough decisions, important decisions. And you take all the factors that you got and you have that gut feeling that you're doing right, then you act. And all of us do that. And reasonable doubt is the standard that's applied in every criminal case in this country from the time it began. And every defendant that's been convicted has been convicted based upon that burden of proof, so it's nothing new. It's no miracle hill to climb. It's a certain level and it doesn't get higher because of the nature of the case. It's the same in this case as it is in any other criminal case.

So when you go back there look at that, in regard to Damien. And I think--and there is a connection between--I think Damien is the link with Jason. I think there is a connection between the two that you can consider in determining the guilt of this other defendant. I think there's that connection. And I think you'll find it in the evidence. When you go back there, ask yourself, look at all the evidence, his belief system, what Narlene and Anthony said, what the girls at the softball park said, the fact that the fibers match up, the wax we've got on his book.

In regard to Jason, the red fiber, and what Michael Carson said. Cause this is the time when you gotta make hard decisions. Michael Carson, he's either - he's lying to you or he's telling you the truth. And it's not somewhere in between. And I put to you he's telling you the truth. Kids like him don't come

in here do that for nothing. When they tell something like that and they put themselves in that position, they're shooting you straight, because he don't like that witness stand. And, he's telling you what happened, and when you put all the evidence together, you wrap it up.

We don't have to put evidence out the sky. We gotta convince you so you have that conviction in your stomach when you go back there and look at that evidence. And I put to you that we've done that in this case, that the defendants are guilty of capital murder--couldn't be a worse capital murder ever committed in this state that I'd be aware of. I mean, it's premeditated and deliberated, it's the worst possible kind of killing you can have. And when you go back there, sort through that evidence. Go through it carefully. Look at this knife. Look at those photos. Look at all the evidence, and piece it together, and when you do, you're gonna find that these defendants are guilty beyond a reasonable doubt. And you'll feel - you can feel - good. You don't have to feel guilty which is what defense attorneys want you to do. You can feel good in returning a verdict of guilty. Once you gone through that evidence and made that determination that there's proof beyond a reasonable doubt.

Thank you.