

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

FILED FOR RECORD

*filed in  
open Ct.  
R.L.*

STATE OF ARKANSAS

2011 AUG 22 P 3:39 PLAINTIFF

vs.

No. CR 93-147 JANE LUFF KILBREATH, CLERK

JESSIE LLOYD MISSKELLEY JR.

BY \_\_\_\_\_ DEFENDANTS

**CONDITIONAL ORDER FOR NEW TRIAL**

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

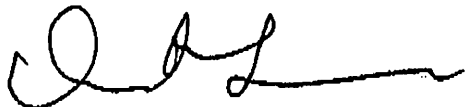
1. This matter is currently before the Court as a result of Opinions and Orders issued by the Arkansas Supreme Court on November 4, 2010, as they relate to Jessie Misskelley and the other persons charged in this offense, Damien Echols and Charles Jason Baldwin in this matter. Those orders instructed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

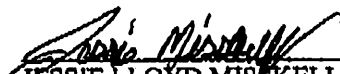
3. The parties, specifically including Misskelley, have advised the Court that they have agreed to a disposition of the petitions and that, if the Court vacates the convictions based on the allegations in the petitions and supporting evidence, which includes the record of all defendants' Rule 37 proceedings, the defendants will enter guilty pleas pursuant to *North Carolina v. Alford* pleas in order to resolve these cases. The parties further agree that the record before this Court is sufficient for the Court to grant or deny relief under the guidance of *Echols v. State*, in which the Arkansas Supreme Court directs the trial court to not only consider any DNA-test results but "all other evidence in this case . . . whether inculpatory or exculpatory, that is relevant to a determination of whether the petitioner established, by compelling evidence, that a new trial would result in acquittal."
4. As to the negotiated pleas, the parties agree to the following conditions: a) the entry of guilty pleas under the terms of *North Carolina v. Alford*, 400 U.S. 25 (1970) and Rules 24.3-24.6 of the Arkansas Rules of Criminal Procedure; b) the Court sentences the three defendants to time served, followed by a ten-year term of suspended imposition of sentence; c) the release of the defendants from the Arkansas Department of Correction; d) that these conditions will be satisfied on Friday August 19, 2011, and e) the petitioners agree to dismiss any and all outstanding claims and proceedings relating to this matter, including, but not limited to, the appeals from the denials of their petitions filed under Ark. R. Cr. P. 37 presently pending before the Arkansas Supreme Court and the habeas corpus action filed by Defendant Echols in the United States District Court for the Eastern District of Arkansas. Further, the parties agree that that the recommended disposition is contingent on the acceptance of the same terms by Separate Defendants Echols and Baldwin in *State of Arkansas v. Echols and Baldwin*, No. CR 93-450 (Craighead County, Western Division, Criminal Division). The parties further agree that the failure of any of these five conditions by any of the three defendants, or by the State of Arkansas, will result in the setting aside of the grant of new trials without further order of this Court and any findings, orders, or statements by the Court expressly or implicitly setting aside the previous convictions and/or granting new trials for all three defendants will be completely rescinded.

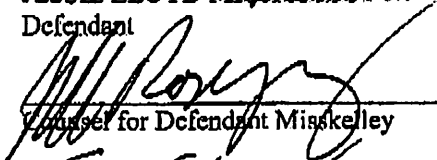
5. The Court finds that all three defendants, with respective defense counsel in attendance, consent to and request this Court to set aside the previous verdicts and set all three cases for a new trial for the purpose of allowing all three defendants to enter the negotiated pleas discussed herein. The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

IT IS SO ORDERED.

Approved by:

  
 \_\_\_\_\_  
 CIRCUIT JUDGE  
 Hon. David Laser

  
 \_\_\_\_\_  
 HESSIE LLOYD MISKELLEY Jr.  
 Defendant

  
 \_\_\_\_\_  
 Counsel for Defendant Miskelley  
 SCOTT ELLINGTON  
 \_\_\_\_\_  
 Scott Ellington  
 Prosecuting Attorney for 2<sup>nd</sup> Judicial District

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS

FILED FOR WESTERN DISTRICT  
CRIMINAL DIVISION

2011 AUG 22 P 3:39

*Filed in open Ct.  
8/19/11  
DJ*

STATE OF ARKANSAS

PLAINTIFF

BENNET LUFF KILBREATH, CLERK

vs.

CR1993-0047

JESSIE L. MISSKELLEY

DEFENDANTS

GUILTY PLEA STATEMENT PURSUANT TO ALFORD

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

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

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

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

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

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

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

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

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

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

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

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

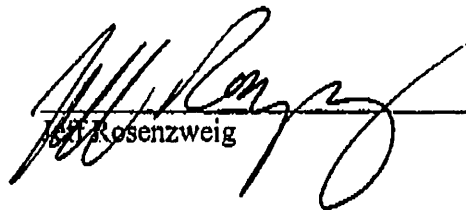
Signed in presence of my lawyer this 19<sup>th</sup> day of August, 2011.

Birthdate: 7/10/1975

Address: \_\_\_\_\_  
MARION, AR

  
\_\_\_\_\_  
Jessie Misskelley Defendant

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

  
\_\_\_\_\_  
Jeff Rosenzweig

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

FILED FOR RECORD

STATE OF ARKANSAS

PLAINTIFF AUG 22 P 3:41

vs.

CR 1993-0047

MARRET LOFF KILBREATH, CLERK

JESSIE L. MISSKELLEY

DEFENDANT \_\_\_\_\_

**PLEA AND SENTENCE RECOMMENDATION**

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

**Defendant agrees to plead guilty to:**

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

**The Prosecuting Attorney agrees to recommend:**

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

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

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

By Scott Ellington

Jessie L. Misskelley  
Jessie Misskelley, Defendant

Jeff Rosenzweig  
Jeff Rosenzweig

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

*Case is open to  
8/19/11  
DJ*

STATE OF ARKANSAS

2011 AUG 22 P 3:41

PLAINTIFF

vs.

ANET LUFF KILBREATH, CLERK  
CR 1993-0047

JESSIE L. MISSKELLEY

DEFENDANT

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

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

**Defendant is charged with the offense(s) of:**

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

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

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

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

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

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

**SUSPENSION IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

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

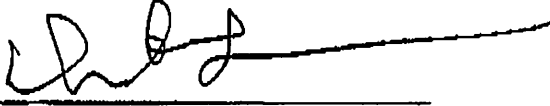
2. You must not use, sell, distribute, or possess any controlled substance, or associate with any person who is participating in or is known to participate in the illegal use, sale, distribution or possession of controlled substances, or be present in places where such persons congregate. You may use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

**SPECIAL CONDITIONS**  
(Applicable only if checked)

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

I acknowledge receipt of the above on 19<sup>th</sup> day of August, 2011.

  
\_\_\_\_\_  
Jessica Misskelley, Defendant

  
\_\_\_\_\_  
Circuit Judge



*Filed in open ct.  
8/19/11 DL.*

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

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

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

Defendant's Full Name.....: **MISSKELLEY, JR., JESSIE LOYD**  
Date Of Birth.....: **7/10/1975**  
Race.....: **WHITE**  
Sex.....: **MALE**  
SID #.....: **639490**  
Defendant's Attorney.....: **JEFF ROSENZWEIG**  
Prosecuting Attorney or Deputy.....: **SCOTT ELLINGTON**  
Change Of Venue From.....: **N/A**

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

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

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2011 AUG 22 P 3:39  
JANET LOFF MILBURN CLERK

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

TOTAL NUMBER OF COUNTS: **3**

Offense # **1** Docket #: **CR 1993-0047**  
Arrest Tracking # : **174037**

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





PROSECUTOR'S SHORT REPORT OF CIRCUMSTANCES

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

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

SID #: 639490

Case # 1993-0047

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

II. FACTORS:

AGGRAVATING

MITIGATING

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

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

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JANET LUFF KILBREATH, CLERK

SIGNED

[Signature]
Circuit Judge

SIGNED

[Signature]
Prosecuting Attorney of Deputy

IN THE CIRCUIT COURT OF CLAY COUNTY, ARKANSAS FILED FOR RECORD  
WESTERN DISTRICT

STATE OF ARKANSAS

VS.

CR 93-47

JESSIE LLOYD MISSKELLEY, JR.

2011 OCT -31 A 10:18  
PLAINTIFF  
JANET LUFF KILBREATH, CLERK

BY Shelia Fowler DC.  
DEFENDANT

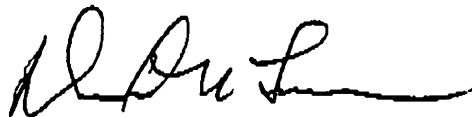
AMENDMENT OF CONDITIONS OF SUSPENDED IMPOSITION OF SENTENCE

The Court is aware that there has been significant public interest in this case and that various media entities desire to jointly interview or host Jessie Lloyd Misskelley, Jr. and his co-defendants Damien Wayne Echols and Charles Jason Baldwin. The Court did impose a prohibition on association with known felons as a condition of their suspended impositions of sentence, with an exception for Misskelley in the case of his immediate family and with an exception for Baldwin and Echols in the case of each other.

The Court finds that such joint interviews may be appropriate and the felon-association provision should not prevent such interviews or other events.

The Court hereby amends the condition of suspended imposition of sentence in which Misskelley was prohibited from association with known felons to exclude Damien Echols and Charles Jason Baldwin from the category of persons with whom Misskelley is prohibited from association, but only in connection with interviews and other appearances where their attorneys, journalists, supporters or the general public are also present.

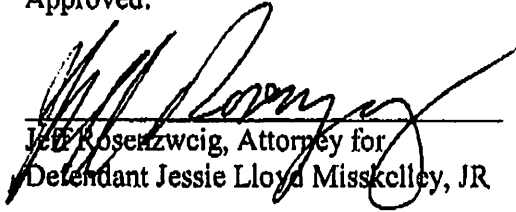
IT IS SO ORDERED.

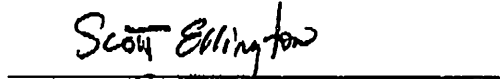


Hon. David Laser, Circuit Judge

Date: 9/30/2011

Approved:

  
\_\_\_\_\_  
Jeff Rosenzweig, Attorney for  
Defendant Jessie Lloyd Misskelley, JR

  
\_\_\_\_\_  
Scott Ellington, Prosecuting Attorney