

## KOBBEMAN, ELROD APPEAL RULING BLOCKING DNA TESTING IN WEST MEMPHIS THREE CASE

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**Fayetteville, Ark. (January 11, 2023)** - Conner & Winters attorneys Kerri Kobbeman and John Elrod have appealed a ruling that blocked advanced DNA testing which could prove the innocence of the West Memphis Three.

On Monday, Kobbeman and Elrod filed an appeal in the Arkansas Supreme Court on behalf of their client Damien Echols, the most prominent figure of the three men known as the West Memphis Three. Convicted as teenagers in the 1993 murders of three young boys in West Memphis, Arkansas, the group has long maintained their innocence and were released from prison in 2011 through an Alford plea agreement. For years, Echols and his co-defendants have sought exoneration through new methods of DNA testing that could potentially identify those who were responsible and bring justice to the victims' families.

"We are honored and excited to be part of the legal team of Damien Echols as he continues his decades-long effort to exonerate himself of capital murder," said Kobbeman.

In June, Crittenden County Circuit Judge Tonya Alexander denied a request from Echols, 48, to examine some of the physical evidence using a new DNA testing technology. Echols was seeking to use the new technology under a 2001 Arkansas law, Act 1780, which allows those convicted of a crime to try and prove their innocence by using technologies that were not available when initially tried and convicted.

While the plain language of the Act 1780 statute gives "a person convicted of a crime" the right to new scientific evidence, Judge Alexander rejected the request, claiming that Echols could not seek relief because he was no longer in

### ATTORNEYS

John R. Elrod  
Kerri E. Kobbeman

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White Collar Criminal  
Defense

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prison. In her June 2022 ruling, Alexander held that Act 1780 relief only applies to those persons who are incarcerated, since it is codified under the Habeas Corpus chapter of the Arkansas code (AR Code § 16-112-201).

After submitting the 45-page filing on appeal, Kobbeman said, "Our appeal to the Arkansas Supreme Court is seeking reversal of the Circuit Court's finding that it did not have jurisdiction to order that certain evidence be submitted for testing using new and advanced DNA testing technology because Echols is no longer incarcerated.

"We will continue to support Echols as he seeks relief under the Act 1780, which allows a person convicted of a crime to move for testing of evidence using forensic methodologies that become available through advances in technology."

The appeal could have a significant impact on defendants seeking exoneration by means of advanced technology that was not contemporaneously available to them during trial. Utilizing new developments in forensic technology that can prove someone's innocence is a way to strengthen our criminal justice system by reducing bias and restoring faith that the system can get the outcome right. As stated in the appellate brief, "Innocence is a state of being. It is not a state of location, in prison or not. One is either "free from guilt" or not. There is no in between."

The West Memphis Three were convicted of murder in 1994 in a case that generated widespread controversy due to the questionable evidence used in trial and the emotional bias of prosecutors claiming the murders were part of a satanic ritual. After all three men were convicted, Echols was sentenced to death and his co-defendants were sentenced to life imprisonment. In 2011, the men were released from prison under an Alford plea deal, whereby they plead guilty but asserted their actual innocence of the crime.

The case has garnered much media attention and has been chronicled in documentaries, books, films, songs, and TV episodes. Several documentaries have been released that analyze the investigation and trial of the West Memphis Three, and the case has been featured on the *New York Times*, *CNN*, *Piers Morgan Tonight*, *48 Hours*, *True Crime with Aphrodite Jones*, and many others. Many celebrities have also been outspoken about asserting the innocence of the West Memphis Three, including actor Johnny Depp, Pearl Jam frontman Eddie Vedder, The Chicks lead singer Natalie Maines, comedian Margaret Cho, actress Winona Ryder, and director Peter Jackson.

Kerri Kobbeman and John Elrod from Conner & Winters are representing Echols on a pro bono basis, in conjunction with Little Rock criminal defense attorney Patrick Benca and nationally-prominent litigation attorney Stephen Braga of Bracewell LLP.

Conner & Winters is a premier full-service business law firm serving the South Central region, with offices in Tulsa, Oklahoma City, Fayetteville, Dallas, Houston, and Washington, D.C. Serving a broad range of industries and clients of all sizes, the firm believes in doing things the right way to get the right results for clients, and the firm will forever advocate for improving access to justice for all.

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