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Satanic Injustice: A Pentadic Rhetorical Analysis of

State of Arkansas v Echols and Baldwin

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A thesis submitted to the faculty of
Brigham Young University
in partial fulfillment of the requirements for the degree of

Master of Arts

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ABSTRACT

Satanic Injustice: A Pentadic Rhetorical Analysis of *State of Arkansas v Echols and Baldwin*

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Master of Arts

Injustice continues to be a highly discussed topic in many scholarly disciplines, including rhetoric and law. Scholars in both fields are exploring how language in legal discourse contributes to systematic inequality, discrimination, and unfairness—racial and nonracial. This rise in scholarly interest correlates with civic concern, as there have been many court cases in the last few decades that have captured public and media attention. One of these cases involved Damien Echols and Jason Baldwin, two teenage boys who were convicted for murdering three 8-year-old boys. Echols and Baldwin were tried during the late 20th-century satanic panic, a well-documented social phenomenon in which many Americans found themselves jailed for crimes they did not commit. In Echols and Baldwin’s case, the prosecution leaned on the rhetorical situation of the satanic panic, convicting the teenagers with hardly any physical evidence, few reliable witnesses, and little proof that either defendant knew the victims. Though the case was later overturned, no claims of prosecutorial misconduct were admitted as justification for a retrial. This thesis analyzes the prosecution’s closing arguments with a focus on Burkean pentadic ratios. The prosecution successfully convicts the defendants by claiming that Echols and Baldwin killed the boys to satisfy satanic beliefs, which becomes the pentadic element “purpose.” Other pentadic elements are always contained within or paired with this purpose, thus emphasizing and prioritizing the larger rhetorical situation, the ongoing satanic panic, to promote a sense of fear in the jury that ultimately leads them to convict. The thesis concludes by suggesting that courts consider the rhetorical situation outside the courtroom as well as within to protect others against similar miscarriages of justice.

Keywords: rhetoric, pentadic criticism, West Memphis Three, moral panic, satanic panic

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Satanic Injustice: A Pentadic Rhetorical Analysis of
State of Arkansas v Echols and Baldwin

On May 5, 1993, at 6:00 p.m., 8-year-olds Steve Edward Branch, Christopher Mark Byers, and James Michael Moore were seen playing together in their West Memphis neighborhood. Tragically, this is the last known time they were seen alive (Newton). Police found their bodies in a nearby creek the following day. Based on postmortem evidence, officers suspected cult or satanic involvement. A few weeks later, a local teen (Jessie Misskelley, Jr.), confessed that he and two other teenagers (Damien Echols and Jason Baldwin) had murdered the boys. Misskelley was tried, found guilty, and sentenced to life in prison. With this confession as primary evidence, Damien Echols and Jason Baldwin were tried together and convicted for three counts of first-degree murder. Baldwin was sentenced to life in prison, and Echols was sentenced to death (Leveritt). These three teenagers are often referred to as the West Memphis Three.

In 2007, new DNA technology revealed that none of the genetic material found at the crime scene matched any of the imprisoned men. Misskelley, Echols, and Baldwin were released with an Alford plea, a guilty-plea legal mechanism in which a defendant acknowledges that there is enough evidence for a jury conviction while simultaneously asserting his or her innocence. Through the eyes of the justice system, the murders of Steve, Christopher, and James have been solved: there are three guilty pleas on court records. For the actual people involved, however, deep wounds remain. Very few remain convinced that the condemned men are guilty, yet the three served a collective 54 years before their release.

By employing Burke's dramatist pentad as a method of analyzing the prosecution's closing statements, I identify how the trial's contemporary rhetorical situation (the 1990s American satanic panic) prompted the prosecution to position their argumentation with purpose

(one of Burke's pentadic terms) as a containing element of the pentadic ratio. The prosecution focuses on Echols and Baldwin's alleged interest in satanic beliefs as motivation for the murders. This, in turn, stimulates a sense of fear in the jury, the same sense of fear that is perpetuated by the sociological phenomenon known as moral panics. This mystic undertone scares jury members, and the fear prompts them to convict, a choice they may not have made if they had been trying "normal" teenagers. This rhetorical strategy allowed prosecutors to convict three innocent boys despite having next to no evidence. This thesis will first give a brief history of American moral panics, including the late 20th-century satanic panic, before explaining how the project fits into the scholarly conversation surrounding legal rhetoric. Then, after an overview of pentadic criticism methodology, it will analyze the prosecution's closing arguments, focusing on the pentadic relationships between "purpose," "agent," and "scene."

Moral Panics

This thesis is situated in the larger conversation surrounding moral panics. Cohen coined the term "moral panic" in his book *Folk Devils and Moral Panics* in 1972. His definition follows:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people . . . Sometimes the object of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. (1)

Since Cohen's identification of the moral panic phenomenon, the concept has become something of a sociological sub-discipline. Many scholars have contributed to a growing body of literature on the topic (Garland 11). Goode and Ben Yehuda identify five key features of moral panics: concern, hostility, consensus, disproportionality, and volatility. The features usually progress in chronological order: there is concern towards the object of the panic, hostility ensues as the community agrees that there is a threat, there is a disproportional volatile reaction from the public, and the moral panic remains volatile throughout the process (Goode and Ben Yehuda). Hall *et al.* write that moral panics are characterized by official reactions from persons of power (police chiefs, politicians, media controllers, and so on) who all respond disproportionately to the actual threat offered (13, 33, 38). Young adds that the phenomenon arises not from whatever issue the particular panic is shouting against, but from anxiety about societal change. He writes, "moral panics involve cultural conflict. On the one side, there is resistance, innovation, and sometimes provocation; on the other, there is indignation and outrage" (4). Moral panics center around carefully selected scapegoats: "the group of events chosen as a focus of moral panic is closely related to the source of anxiety. It is a symptom of the underlying moral uneasiness" (Young 14). These panics, Young continues, are "seductive events" that have real and dangerous consequences.

There are many examples of moral panics in America; the tradition starts as early as 1692 when 19 people were killed in the infamous Salem Witch Trials (Reed). The phenomenon resurfaces during the Cold War when Joseph McCarthy furiously campaigned against alleged communists. Many of those accused lost their jobs, even though most had nothing to do with the Communist Party (Fitzgerald 26). Though moral panics have consistent features, they come in a variety of shapes and sizes (Garland 13). Some seem trivial, unsupported, and short-lived, like

public outcry over *Harry Potter* or Elvis Presley (Soulliere; Thiel-Stern). Others alter political regulations and societal reality for decades, like the War on Drugs (Hawdon). One should note that the War on Drugs is an excellent example of a moral panic not because drug use in the United States during the 1980s was insignificant—many people during that time died of overdoses or other drug-related problems—but because the media and public outcry against drugs was inordinate when compared to other public issues of the time. Hawdon writes, “the fact that the public listed drug use as the number one problem in the country when the objective harm caused by drug use was far from being the leading harmful condition illustrates the disproportionality” (421). The disproportionate relationship between public outcry and the actual problem that the public obsesses over is a hallmark of moral panics, including the late 20th-century satanic panic.

American Satanic Panic

A satanic panic is a type of moral panic that involves fear of ritual occult behavior. In America, the term is most often referring to the intense fear of ritualized child abuse that domineered the late twentieth century. Hughes writes that this satanic panic began in 1969 when members of Charles Manson’s cult murdered seven people (76–77). Manson’s notoriety grew into a symbol of insanity, violence, and demonism (Hughes 76). In the 80s, the satanic panic intensified as allegations of ritualized child abuse in daycares started popping up all over the country. Hundreds of child-care providers were investigated for supposedly committing horrific sexual child abuse. About 190 people were formally charged, and more than 80 were convicted, shutting down many daycares that had previously enjoyed a spotless reputation (Beck). Many of these daycares and childcare providers were later cleared of the allegations, but their careers and lives had already been ruined. The satanic panic continued through the 1990s, and though

daycare allegations faded, the public remained wary of people who ran outside the circles of normative, family-centered hegemony and were especially sensitive to allegations of occult behavior (Hughes). The latter part of the satanic panic constitutes the rhetorical situation for *State of Arkansas v Echols and Baldwin*, as the two were sentenced in 1994.

Though the face of the satanic panic is supernatural events and demonic people, like Charles Manson, several scholars have recognized that, like all moral panics, the underlying concerns behind satanic panics reflect contemporary social anxieties. For example, Hughes points out that as more women began careers and sent their children to daycare, an underlying fear of the “feminist agenda” led the media to depict daycare centers as sites of ritual abuse, grossly exaggerating (if not completely making up) allegations of daycare workers abusing children. Hughes writes, “In many ways, the panic represented a confluence of the New Right’s values and policies and demonstrated that their social impact, which was reinforced by the media, was significant” (8). Robbins also acknowledges that the satanic panic was reflective of societal anxieties. She writes that the satanic panic is really about media sensationalism, economic insecurity, and family instability of the times.

Unfortunately, the satanic panic affected more people than just child-care providers. Beck writes “social panic . . . lives in the private mental experiences of individuals and the tools people use to make sense of those experiences, which is to say that a panic is also a matter of psychology” (215). And because moral panics are communal, the satanic panic tainted all of society as a whole, which too often resulted in people being ostracized for holding non-hegemonic beliefs. Stidham *et al.* write that because of expanded media coverage on occult behaviors, people who held any sort of beliefs that differed from the norm were often the first to be blamed for any misfortune as communities often choose scapegoats “from among those who

are simple to persecute due to religious, socioeconomic, or physical differences” (1072). The satanic panic is not the first moral panic in American history that blamed outsiders for events outside of a community’s control. Robbins recognizes the satanic panic as “a modern version of the medieval witch hunts” (91). Like in these centuries-old persecutions, the justice system plays an active role in investigating and punishing those guilty only of being different. Many people from 1970–2000, including the West Memphis Three, were unfairly prosecuted because of satanic-panic fears.

Legal Rhetoric and the Burkean Pentad

By linking the prosecution’s strategy in the case of the West Memphis Three to the satanic panic of the time, this project joins the work of rhetorical scholars who are interested in how rhetoric works within the legal system. In *The Rhetoric of Law*, Kearns and Sarat discuss how legal discourse is a type of rhetorical genre that has unquestionable real-world implications. They write, “Law, then, is a stage for the display of verbal skill, linguistic virtuosity, and persuasive argument in which words take on a seriousness virtually unparalleled in any other domain of human experience” (2). Because of the duplicity and impreciseness of language, they argue, one must consider rhetoric when studying legal discourse. Likewise, Seidman argues that courtroom arguments are intensely rhetorical. “It is said,” he writes, “that the rules of evidence are designed to allow juries to get at the truth. What they provide, instead, is a particular frame that produces a particular truth. If you choose another frame, you choose another truth” (164). This view is inherently constructivist: language does not describe reality; it creates it, even in the courtroom.

Given these premises, it seems clear that Kenneth Burke's work has much to offer our understanding of legal rhetoric. In *A Grammar of Motives*, Burke writes that his pentadic methodology centers around how people explain or convey experiences, revealing motivations behind the dialogue. But these experiences are always rhetorical, as "language being essentially human, we would view human relations in terms of the linguistic instrument" (*A Grammar of Motives* 317). Thus, in analyzing discourse, Burke insists that scholars look not at "forms of experience" but "forms of *talk about* experience," which always contain elements of persuasion (*A Grammar of Motives* 317). Burke also writes, "Any nomenclature necessarily directs the attention into some channels rather than others" and "Even if any given terminology is a *reflection* of reality, by its very nature as a terminology it must be a *selection* of reality; and to this extent it must function also as a *deflection* of reality" (*Language as Symbolic Action* 45). Burke's ideas are troubling when one thinks of them in terms of legal discourse, as language always filters reality. This thesis will join scholars like Kearns and Sarat who recognize that legal discourse, like all language, drips with authorial intent and has both intended and unintended consequences.

The circumstances surrounding Echols and Baldwin's unjust case have been analyzed from multiple perspectives, including a rhetorical perspective. In "Hunting our Bad Selves: Projective Identification and the Case of the West Memphis Three," Roger and Amanda D. Gatchet discuss Melanie Klein's psychoanalytic definition of projective identification in conversation with Kenneth Burke's work on scapegoating and collective identity formation. They find compelling evidence for such a connection in the materials surrounding the West Memphis Three case. The three teenage boys, the authors argue, were convicted because "members of the West Memphis community began the process of collective self-persuasion

through projective identification” (530). Their analysis adds a nuanced understanding of communal persecutions to the field of rhetoric. Like most other researchers and scholars who write about the West Memphis Three case, Gatchet and Gatchet’s article focuses on artifacts developed from outside of the courthouse: interviews with community members, press coverage, police transcripts, etc. This thesis adds to this conversation by diving into the court transcripts themselves, following previously mentioned examples of scholars who use the pentadic methodology to discover interesting truths about specific cases and patterns about how rhetoric operates in the law.

Burkean pentadic rhetorical criticism reveals motivations that drive rhetorical messages by dissecting the five elements of drama: “act” (what was done), “agent” (who did it), “agency” (how they did it), “scene” (where they did it), and “purpose” (why they did it) (Foss 367). To conduct pentadic criticism, rhetoricians first label the terms in the artifact from the rhetor’s perspective. They then identify which term or terms in the pentad are dominant by comparing them with one another to see how the rhetor frames a worldview to best persuade an audience. This comparison happens through pentadic ratios, where a critic positions two elements of the pentad against each other. Scene/agency, for example, is a pentadic ratio. Through pentadic ratios, critics are able to better analyze how the elements work together and why those elements/worldviews are favored by the rhetor (Foss 408). Burke writes the following:

We want to inquire into the purely internal relationships which the five terms bear to one another, considering their possibilities of transformation, their range of permutations and combinations—and then to see how these various resources figure in actual statements about human motives. (*Grammar of Motives* xi)

By labeling elements of the pentad and then analyzing how the elements relate to one another, one is able to better understand a rhetor's philosophical motivations. Pentadic ratios are also useful to detect important shifts in argumentation. As critics examine pentadic elements and ratios, they can better understand how a rhetor constructs an argument for his or her audience. This methodology fits this project especially well because it allows insight into how a prosecution shapes facts (such as wearing black T-shirts) into motivation (wearing black T-shirts becomes a sure sign of occult involvement). Andrew King writes, "In short, gaining perspective is at the heart of Pentadic Criticism method. Perspective shows that provisional truth lies on several sides, but that some perspectives have serious limitations" (177). In this case, the pentadic method works to gain perspective on the limitations—and the strengths—of a dangerous prosecutorial argument.

Although this methodology was introduced over 50 years ago, pentadic criticism remains popular and influential in the field of rhetoric, especially when analyzing courtroom discourse. Sarah J. and Luke R. Nelson recently published "A Pentadic Analysis of Competing Narratives in Opening Statements," which evaluates the famous Casey Anthony case. They use this methodology to deconstruct the case's narratives: by analyzing the dramatist ratios, the scholars are better able to decipher the rhetor's motivations. The authors maintain that "knowing and understanding how pentadic terms influence one another within a narrative . . . is essential for trial attorneys to perfect the art of storytelling" (157). Steven Boscolo also uses this methodology in his article "Using Judicial Motives to Persuade Judges: A Dramatistic Analysis of Petitioners' Brief in *Lawrence v. Texas*." Boscolo marries the pentad to Burke's theory of identification, the establishment of affinity between a rhetor and his or her audience. Boscolo writes, "as the Petitioners' Brief demonstrates, it is possible to use dramatism to effectively persuade an

audience through identification” (195). As these examples demonstrate, pentadic criticism is alive and well in both legal and rhetorical disciplines. This thesis will examine how prosecutors John Fogelman and Brent Davis use dramatist ratios in their opening and closing statement narratives and explore how their prescribed worldviews bring the outside rhetorical situation into the courtroom and lead to a sense of moral fear in the jury box. I will specifically focus on how they position Echols and Baldwin’s purpose—namely, satanic occultic beliefs and behaviors—in relation to the other elements of drama.

Analysis

One of the most interesting, and disturbing, parts of the Echols and Baldwin case is that if not for Echols’ public persona of mystery and darkness, it is almost certain that the young men would not have been indicted for the crime. The police’s initial investigation unearthed very few leads, prompting detectives to give more attention to earlier suggestions of “gang or cult” involvement, a theory incited by the ongoing satanic panic (Leveritt). Echols was an easy target for these officers, as he was known to be troubled and strange. Echols’ looks also prompted suspicion. His probation officer described him as “one of those slasher-movie-type guys—boots, coat, long, stringy black hair, though he cut it short sometimes” (Leveritt 43). Echols told people that he was a witch in the Wicca religion, a paganist belief system that involves nature worship and supernatural activities. Echols’ girlfriend was pregnant, and there were whispers that the parents conceived the child purposefully in order to sacrifice him shortly after birth in a satanic ritual. This particular rumor shows how the rhetorical situation of the satanic panic influenced the community and investigation’s perception of Echols, as rumors of newborn slaughter were common during the satanic panic. Beck reports that there were many accounts of women giving birth in order to sacrifice their infants (81). Echols was targeted by the investigation because of

the rhetorical situation that surrounded him: West Memphis gossip matched nationwide stereotypes, which was enough to make officers seriously suspect him.

Years after the trial, Echols explained that his unconventional appearance and demeanor were ways to cope with the difficult life circumstances that surrounded him. His Poe-like writing was nothing more than creative fiction, he says, and at a young age, he found that eccentric behaviors, such as carrying around a dog skull, made people leave him alone. And, of course, he claims to love his son unconditionally (Gatchet and Gatchet). To investigators, however, these unsettling behaviors and rumors made up for a lack of crime-scene evidence. Living differently put Echols on death row, as much of the prosecution's evidence centered around Echols' peculiar lifestyle. For Baldwin, just being friends with Echols bought him a life sentence, as the only way the prosecution could connect him to occultist beliefs was through his friendship with Echols and a proclivity to wear black T-shirts (Linder). Unfortunately, such unfairness is not uncommon in moral panics and definitely was not uncommon in the satanic panic. Young writes that a notable feature of moral panics is the self-fulfillment of stereotypes: Moral panics can translate fantasy into reality (5). The satanic panic in West Memphis, Arkansas, transformed Echols' fictitious persona into a real murderer. Echols became the "self-fulfilling stereotype" of a murderous Satan worshiper, and Baldwin became the necessary accomplice. Because there was such minimal evidence that Echols and Baldwin committed murder, the prosecution had to firmly rely on satanic motivation in their opening and closing statements. We can understand how they do this by using the pentad, as Burke writes that dramatism can be found seemingly everywhere: "in systematically elaborated metaphysical structures, in legal judgments, in poetry and fiction, in political and scientific works, in news and in bits of gossip offered at random" (Grammar xv). They did this by relating salient pentadic elements, such as agent (who committed the murders)

and scene (where the murders were committed/the current American satanic panic) back to purpose (why the murders were committed). These pentadic elements meld together a narrative that cultivates fear in the jury, convincing them to convict.

Purpose/Agent

Purpose is an essential pentadic element for the prosecutors' argument because the burden of proof falls on them to convince the jury that two teenagers murdered three other children, an expression of evil difficult for anyone to accept. In his closing statement, Fogelman discusses this disadvantage directly:

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, think how hard it would be for you to conceive of typical teens doing what was done to these three eight-year-old boys.

(Linder)

The prosecution must, then, convince the jury that Echols and Baldwin are not regular teenage boys, but murderous satanic worshipers. Fogelman assumes that the jury will not convict the teenagers unless they are sure that Echols and Baldwin had a strong motivation, or purpose, to kill. Religion, the prosecution argues, gives them this motivation. In his closing statement, Fogelman compares Echols and Baldwins' motivation to others who have killed for supposedly similar reasons: "There have been hundreds of people killed in the name of religion. It is a motivating force" (Linder). Fogelman draws on facts in this statement; there are many well-known cases of people killing for religion, and putting Echols and Baldwin in that same camp is a powerful way to convince the jury that the teenagers could have committed this crime. They,

like other murderers, killed on behalf of their religion. Fogelman says, “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” (Linder). The prosecution must prove, then, that Echols and Baldwin were both personally motivated by satanic worship. They accomplish this by emphasizing how Echols’ strange behaviors and beliefs could be interpreted as occultism and by emphasizing Baldwin’s close relationship with Echols. By focusing on Echols and Baldwin’s alleged religious beliefs as motivation, the prosecution makes the case against Echols and Baldwin believable.

The prosecution relies on circumstantial evidence to convict Echols and Baldwin. Circumstantial evidence is defined by legal scholars as evidence that establishes connections between the supposedly guilty party and the crime by implication (“Circumstantial Evidence”). Circumstantial evidence requires reasoning, as it only indirectly supports the premise of the accusation. This type of evidence is especially interesting to analyze from a Burkean pentad perspective because there is so much room for interpretation; circumstantial evidence leaves plenty of rhetorical space in which the prosecution can purposefully meld pentadic elements into a story and a worldview that will resonate with a jury (Foss 370). The prosecution acknowledges that their case is circumstantial. In his closing statement, Fogelman says, “and we submit that 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” (Linder). The prosecution highlights the legitimacy of circumstantial evidence because so much of the prosecution’s case relies on this type of evidence to prove motivation, and motivation is central to their argument. One can infer that the murders were committed for religious purposes, the prosecution argues, based on a mountain of evidence, though each piece may individually seem irrelevant. Such pieces of

evidence include rumors about Echols drinking blood, Echols and Baldwin wearing a lot of black clothing, Echols cutting himself, etc. Each individual piece of evidence may not mean much to the jury by itself, but the prosecution amalgamates the circumstantial fragments against the backdrop of the satanic panic to convince the jury that the accused had a strong motivation to commit the murders, thus amalgamating purpose and agent.

Interestingly, the circumstantial evidence that the prosecution focuses on is not necessarily evidence that the teenagers were interested in any real satanist belief system. Instead, the prosecution relies on folklore that they think will convince the jury that the boys were active members of some sort of occult group. In his book *Raising the Devil: Satanism, New Religions, and the Media*, Ellis makes this distinction and defines folklore: “we must be careful to distinguish folklore of witchcraft and Satanism (i.e., what witches and Satanists do believe) from folklore about witches and Satanists (what anti-occult crusaders think witches and Satanists believe)” (2). The prosecution is not careful about this difference. In fact, they actively rely on folklore about witchcraft throughout their argumentation because of their audience, as prosecutors must convince a jury of middle-class Arkansas residents, not Wicca scholars, and the prosecution knows that by focusing on bits of terrifying folklore that average people may have heard from the media (based on the ongoing satanic panic), they can utilize the sense of fear and mystery to convict the teenagers. Burke predicts that the pentad will reveal this kind of inexactness, as pentadic analyses help find “the strategic spots at which ambiguities necessarily arise” (*Grammar of Motives* xv). The prosecution passing folklore as fact reveals this pentadic ambiguity, as they are primarily concerned with conviction instead of truth. The jury can know, the prosecution implies, that Echols and Baldwin committed the crime because they were acting

like stereotypical satanic worshipers, not necessarily because their actions prove them to be genuine believers.

Purpose combines with agent to create a codependent pentadic ratio, as the prosecution's depiction of Echols and Baldwin as agents must reinforce the idea that Echols and Baldwin operated with satanism as their main purpose. In his closing statement, Davis says, "whoever committed this crime has to be one warped individual" (Linder). This idea permeates the prosecution's argument, and the purpose/agent pentadic ratio forms a condemnatory circumvolution: the motivation to kill another person because of satanic worship makes one strange, but only a strange person would get themselves involved in such a practice. Purpose is intimately and precariously connected to agent because for the jury to believe that satanic worship was the primary motivation behind a crime, they must also believe that the accused is someone who would be involved in satanic organizations or activities. In *The Grammar of Motives*, Burke describes how pentadic elements are often in a relationship he calls the container and a thing contained (3). This language describes how elements of the pentad work together. He describes scene and agent and notes that the agent is often contained within the scene; for example, a harsh environment would produce harsh characters (8). Likewise, the prosecution seems to manipulate agent and purpose to flip-flop between being the container and the thing contained; a circular relationship continues. The agents (Echols and Baldwin) are sometimes strange because of their purpose (satanic worship). Other times, they have a strange motivation because they are strange people. In his closing statement, Davis says the following:

There's something strange going on that causes people to do this. I mean, you've got some weird people. . . . I mean, the guy's handwritten incantations regarding

sacrifice, letting the blood flow, all that sort of thing. I mean, that is [*sic*] indication of someone that's got some rather unusual belief systems. (Linder)

This statement shows the connection between agent and purpose. Echols and Baldwin are weird, which makes them more likely to have such a strange motivation to kill. Davis also says, “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. . . . Because what type of person could do that is at the very center of this case” (Linder). No normal person, Davis implies, would be able to kill the boys. It takes someone special, and Echols and Baldwin are uniquely terrible because of their belief systems. This tacking back and forth between agent and purpose exemplifies the close connection that the prosecution ascribes to these pentadic elements. Despite this close relationship, purpose continues to contain agent, as the prosecution positions their entire argument on the notion that the crime was committed because of satanic motivations.

The prosecution is able to adequately prove the theory of satanic purpose only by proving that Echols and Baldwin are the kind of agents who believe in satanism. After all, it would be difficult to take a random teenage boy off the street, put him in front of a jury, and say, “this person murdered because he needed to perform a religious offering of children to Satan.” It is a different story, however, to take a person who has openly admitted that he is a Satan worshipper. Now, even ordinary activities, such as wearing a lot of black, become suspicious. Rountree explains this relationship between pentadic elements in the following:

Specific dimensions of terministic relations are normative, established by a discourse community's shared beliefs about “what goes with what” at a given point in time, underlying expectations that one will or should find certain types of agents

engaging in certain types of actions, using certain agencies, within certain scenes, for certain purposes, evincing certain attitudes.

The prosecution focuses on Echols to prove this relationship between purpose and agent, arguing that he is the kind of person to commit a satanic sacrifice. The prosecution puts people on the stand who have personally seen Echols engage in occult activities, such as drinking blood, or have seen the pentagram inked on his chest. Now, Echols' involvement becomes believable because he is the type of person who would have these motivations. Davis says the following:

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. (Linder)

There is a keyword in this statement: bizarre. Davis repeats the word to connect purpose and agent. The purpose, the reason that the boys were killed, is otherworldly and strange. Therefore, the people who committed the murders must also be strange. And it is so easy to connect the strange things that happened with the strange young man who always seemed to be in the middle of trouble: Echols. Though each piece of evidence does not point to murder individually, the state is careful to tell the jury that they should consider all evidence in context with all the other evidence. Fogelman's closing statement says the following:

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. . . . and there's not a soul in there. (Linder)

Echols' soul, Fogelman implies, has been taken over by satanic worship, and he can prove that to the jury by showing small shards of Echols' life that add up to a consuming obsession, an obsession that resulted in Christopher, Steve, and Michael's murders. Here again, one can see how the prosecution privileges the purpose/agent ratio, a worldview that shows the jury that Echols (and Baldwin by association) has been displaying frightening behavior for years, and if the teenagers are not found guilty, the dangerous practices will continue.

That the death penalty is on the table for Echols brings an even more interesting implication for how the prosecution manipulates the purpose/agent pentadic ratio. Because Baldwin is only 17 at the time of the trial, the death penalty is off the table for him. But because Echols is tried as an adult, the prosecution asks for an execution. And to win the execution, the prosecution needs the jury to be convinced that Echols is a dangerous person who, if let free, would continue to harm the community. In order to accomplish this, the prosecution must weave their way around the purpose/agent pentadic ratio carefully. On the one hand, they need to emphasize a satanic purpose so that the jury will believe that Echols committed the murder—it would be difficult for them to believe that he did it for only pleasure. On the other hand, they must also convince the jury that Echols would still be a danger to the community if he were to separate from his religious beliefs, that he is dangerous independently of other influences. The prosecution is careful not to imply that Echols was acting out of his control or that he only killed the boys because he thought he had to.

Burke mentions this precarious position in *The Grammar of Motives*: by making purpose absolute, he writes, one can “[transform] it into a fatality,” meaning that if one focuses completely on purpose, it actually discredits the argument (291). “Ironically,” Burke continues, “motivational schemes that would feature it [purpose] less may allow it more” (291). The

prosecution seems to embrace these Burkean truths intrinsically. Though the prosecution is clearly trying to establish that Echols was acting because of his religion, they are careful to not let Echols' beliefs overpower the case or become an excuse for the murders. The prosecution establishes that Echols is a strange person (agent) with an even stranger motivation for killing the boys (purpose), yet they shape Echols as an agent who wants to kill regardless of the religious benefits killing might achieve. Talking about people who kill in the name of religion, Fogelman's closing statement says, "It [religion] gives people who want to do evil, want to commit murders, a reason to do what they're doing." This is an interesting undercurrent that shifts the blame from the purpose to the agent and shows how motivation really works within pentadic elements, as the ratio allows for a balance. If there were too much emphasis on purpose, the jury might have decided that Echols and Baldwin should not be blamed because they got caught up in something bigger than themselves. But without enough purpose, agent is not strong enough, for the jury would not believe the boys killed just for the fun of it. So, for most of the prosecution's argument, they blame religion but are careful not to take it too far. Satanic worship, they seem to say, is how Echols justified his actions, but murders are still murders, and killing in the name of religion is just an excuse for the monster that deserves to be executed for his crime.

To further prove his point that Echols is an agent who chose to kill, Fogelman reads the following from Echols' poetry in his closing statement:

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. (Linder)

Fogelman then says, “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” (Linder). Fogelman focuses on Echols as an agent in this statement. Echols chose the dark side; he will continue to choose the dark side; and even though purpose is the reason that they can prove Echols and Baldwin killed the boys, the boys were not killed because of purpose alone. Even though there may be a religious aspect to the killing, the prosecution argues, there was still a conscious part of Echols that wanted to kill just to kill. Even without satanic worship as a motivation, Echols and Baldwin, Echols especially, not only have dangerous motivations but are dangerous individuals.

Fear plays a large role in the purpose/agent pentadic ratio, as the prosecution wants to convince the jury that, if left to their own devices, Echols and Baldwin would be dangerous to the community not just for further possible violence they could inflict but also for the disease-like ideas they could spread. During the 1994 trial, the satanic panic was raging throughout America, and jury members would have heard from the prominent news coverage about the dangers of teenagers just like Echols and Baldwin (Stidham *et al.*). Satanism was portrayed as an infection, something spreading at uncontrollable rates, and citizens were often warned that it was their job to do everything in their power to protect their communities and their families from the demonic epidemic (Hughes). Jury members for this case were selected from a neighboring county, and Fogelman’s closing statement speaks directly to this audience, hinting that Echols has been proselyting in their community and around their children: “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” (Linder). In this statement, the prosecution is subtly referencing the same dangers that the news media has been portraying for years, arguing that Echols and Baldwin killed the three boys to satisfy a religion that, if someone does not stop it, will spread to the jury members’ very community, to their very family, possibly getting more people hurt or even killed. Invoking the country’s rhetorical situation to raise fear is a powerful rhetorical strategy that elicits the judgment the prosecution is hoping for: guilty.

Purpose/Scene

As misguided and horrible as it was for Echols to be on trial for murder because of his religious beliefs and his strange, but legal, behaviors, it is even sadder that Baldwin was looped in with him. Baldwin seems to have been convicted primarily for being Echols’s friend, as there was little proof that Baldwin himself was interested in the paganist beliefs that got him in so much trouble. In a pentadic sense, Baldwin becomes a victim of scene by virtue of the fact that he was in such close proximity to Echols. Both scenes he’s stuck in—the scene of the courtroom and the scene of a close personal friendship—are contained by purpose. Based on the worldview the prosecution posits, Baldwin and Echols cleave to each other inside the trial and out not because they are a pair of ostracized teenage boys, but because they share powerful and dangerous religious opinions. Baldwin’s defense team petitioned the judge to separate the boys’ cases multiple times, but Baldwin’s case was tried with Echols’. The judge simply asked jury members to keep the evidence against Echols (including the evidence that he was interested in the occult) separate from Baldwin. So even though Baldwin had little provable association with Echols’ beliefs, Baldwin sat next to him as a defendant in the same trial. Predictably, the jury found Baldwin guilty too.

There was so little evidence that Baldwin was interested in satanic worship like Echols that prosecutors reached into the closet, literally, to convince jurors that Baldwin was involved with occult behaviors. The prosecution presented pictures of Baldwin's clothes as evidence, specifically, his black clothes. In an interview after the trial, Baldwin said the following:

They think I was in a cult or something, just because I was friends with Damien, and I wore Metallica T-shirts. They even had [the shirts] in court. They brought clothes out of my closet. They didn't bring any of my other clothes to court; just some black T-shirts. I had white T-shirts too. (Stidham *et al.* 1080)

There was a plethora of evidence that Echols was interested in the occult. The prosecution had journals full of Echols' writing about the religion, eye-witnesses who confirmed that Echols had told them about the religion, and a room full of satanic symbolism, such as candles and pentagrams. For Baldwin, though, they only had black T-shirts. With such dismal evidence, the prosecution relied on the scene of Baldwin's close relationship with Echols. In his closing argument, Fogelman says the following:

They [Echols and Baldwin] spent three to four hours together nearly every day, that he [Echols] 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. (Linder)

Because Baldwin is so close to Echols, the prosecution argues that if Echols was involved in satanic worship, then Baldwin was involved as well. Occult beliefs become the reason that their friendship is so strong. On its surface, this seems like a weak tie. Jurors probably would not find their relationship so incriminating if it were basketball that connected the boys. But the

association trope becomes powerful because of the mystique of occult behavior. Members of the small-town jury become susceptible to the well-known colloquialism “birds of a feather flock together,” and the prosecution preys incessantly on this principle. In his closing argument, Davis says, “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” (Linder). If Echols is involved, the prosecution argues, then his best friend, Baldwin, must be as well. That Baldwin was able to be convicted with such little evidence shows the power of the pentadic relationship between purpose and scene: because Baldwin occupies the same space as Echols in and out of the courtroom, the jury believes that Baldwin is also so involved in the occult that he is willing to kill three innocent little boys.

The prosecution also involves the purpose/scene ratio when describing why Echols and Baldwin choose Robin Hood Hills to murder the boys. It is important to note that when one talks about scene from a pentadic perspective, one is not referencing how the scene actually appears, but how the rhetor describes or situates scene in his or her argument. Conceptualizing scene this way goes back to Burke’s mandate to analyze not experience but “forms of *talk about* experience” (317). Foss clarifies this idea, writing, “You want to be focused inside the rhetor’s discourse, so you are naming the pentadic elements according to how the rhetor identifies them” (370). The rhetors, the prosecution, focus on the scene of the crime as the place where the bodies were found. Police recovered Chris, Steve, and Michael from Robin Hood Hills, a small patch of woods near the residential area where the boys lived. The woods were also close to a major interstate and a large truck stop (Newton 307). Because of the area’s proximity to the interstate, Echols and Baldwin’s defense team theorize that a transient serial killer/killers may have swooped through West Memphis and committed the murders; after all, many parents warned

their children to stay out of the woods because of concerns about strangers (Leveritt 8). This theory seems plausible, especially when considering how little evidence the perpetrators left behind. The only ones who could kill and get rid of the evidence so effectively, the defense argues, were people who had done it before. The prosecution relies on scene to refute these allegations. Davis says the following in his closing statement:

The 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 area. . . . Whoever did this, this wasn't some stranger that popped in off the interstate. Whoever did this . . . was someone that was familiar with this area. . . . And I put to you, that's consistent with our defendants. (Linder)

Though the woods were near a main throughway, it is unlikely that a passerby would know how to get there (over a pipe laid across the creek) or that children liked to play in that area (Leveritt 8). These details make Baldwin and Echols prime suspects, as they absolutely know how to access the woods. Moreover, Baldwin and Echols would know that Robin Hood Hills is remote enough to kill and hide bodies, making it the perfect place to fulfill their satanic purposes. Davis says, "even though it doesn't appear that secluded, it's a heck of a place to pull this off" (Linder). Through this lens, the scene of Robin Hood Hills supports Echols and Baldwin's satanic purposes, as they would need a large, private area in order to complete the alleged sacrifice.

Conclusion

To convict someone of first-degree murder, the prosecuting attorneys must prove the defendant guilty "beyond a reasonable doubt." In the case of Echols and Baldwin, the prosecuting attorneys were able to do so with hardly any physical evidence, few reliable

witnesses, and little proof that either defendant knew the victims. And though the case was later overturned, no evidence of prosecutorial misconduct was admitted as justification for a retrial. Rhetorically, this is impressive. This thesis has explored how the pentadic element purpose relates to other elements of the prosecution's argument, as Echols (and Baldwin as a victim of scene) are convicted based on the idea that they committed the crimes because of dangerous religious beliefs. Purpose is carefully paired with agent; the two elements form a circumlocutionary relationship: the motivation to kill another person because of satanic worship makes one strange, but only a strange person would get themselves involved in such a practice. The prosecution walks the purpose/agent line carefully, for they must prove that Echols is not a teen troubled by circumstances outside his control, but a dangerous man who deserves to be executed. Purpose also contains scene, as Baldwin, unfortunately, is found guilty for simply being Echols' friend and for sitting next to him at the defendant's table. The prosecution also positions the scene of the crime in relation to a satanic purpose, as they argue that Echols and Baldwin knew Robin Hood Hills would be the perfect place for a satanic sacrifice. These pentadic ratios upheld the defendants' satanic purposes by combining to create a powerful argument: Echols and Baldwin are both guilty and dangerous.

The prosecution's positing purpose as the primary pentadic element is especially interesting because of the rhetorical situation surrounding the trial. The trial was conducted in the throes of the satanic panic, a time in America when fears of occult behavior and ritualized child abuse permeated the country (Beck). This satanic panic, like other satanic panics, is a type of moral panic. Moral panics occur when people become overwhelmingly concerned about a "condition, episode, person or group of persons" who are portrayed by mass media to pose an exaggerated threat (Cohen 1). Unfortunately, during such moral panics, the American justice

system often contributes to othering people who are different. Such is the case for the West Memphis Three. This thesis adds to rhetorical theory by showing how the prosecution positions pentadic elements in their argumentation to cater to the rhetorical situation outside the courtroom as well as within, for the jury was undoubtedly affected by the satanic panic. Even if the jury had not heard the details of Echols and Baldwin's particular case, each member was a part of a society that feared and obsessed over demonic caricatures, and by pairing Echols and Baldwin's supposed purpose with agent and scene, the prosecution painted the teenagers in all shades of satanic stereotypes. Through Echols and Baldwin's supposed stereotypical motivation, the prosecution was able to get the judgment they hoped for: guilty.

The concept of bringing outside rhetorical situations into courtrooms is especially salient when put in context with the present-day rhetorical situation in the United States, as movements such as #metoo and #blacklivesmatter show that the nation is currently sensitive to and concerned with miscarriages of justice. Race should especially be considered in light of these findings because, similarly to a satanic panic, racial tensions often bring outside rhetorical situational bias into the justice system and amplify pressures on juries and judges. It is important to study this tragedy, as well as other similar courtroom breakdowns, so that one can better recognize how and when rhetoric can be dangerous, as mixing rhetorical situations, circumstantial evidence, and pentadic elements seems to be an uncommonly effective rhetorical strategy. In Burke's analysis of Hitler's *Mein Kampf*, he writes that his goal is to "try to consider what kind of 'medicine' this medicine-man has concocted, that we may know, with greater accuracy, exactly what to guard against, if we are to forestall the concocting of similar medicine in America" (Burke 164). The "medicine" that the prosecuting attorneys concoct by bringing an outside rhetorical situation (the satanic panic) into the courtroom containing all other elements of

their argument within this satanic motivation is powerful, and, apparently, dangerous, especially when dealing with circumstantial evidence. This thesis has considered pentadic medicine in context with moral panics and legal rhetoric in an attempt to help guard against other dangerous concoctions. Litigators and judges especially should be concerned with this analysis, as it reveals how susceptible juries may be to powerful pentadic relationships in circumstantial cases, a possible weak spot in the justice system.

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